

# TEXAS REGISTER

*Volume 21, Number 34 May 10, 1996*

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***This month's front cover artwork:***

***Artist: Pedro Torres***

***12th grade***

***PSJA North High School, PSJA ISD, Pharr***

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# ATTORNEY GENERAL

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Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the **Texas Register**. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. To request copies of opinions, phone (512) 462-0011. To inquire about pending requests for opinions, phone (512) 463-2110.

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## Requests for Opinions

**ID# 38638.** Request from the Honorable Ron Lewis, Chair, Committee on County Affairs, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether a school board member who resigns but "returns" prior to the appointment of a replacement is still a member of the board.

**ID# 38643.** Request from the Honorable Doyle Willis, Chair, Military and Veterans Affairs Committee, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether the Bexar County Commissioners Court may house its veterans service officer with its Department of Housing and Human Services.

**ID# 38644.** Request from Mr. Jack Garison, Executive Director, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, concerning whether the administrative penalty authority granted to the Department of Licensing and Regulation under Labor Code, §91.021, resides in the commission or the commissioner.

**ID# 38659.** Request from the Honorable Michael G. Mask, Jack County Attorney, County Courthouse, Third Floor, Jacksboro, Texas 76458, concerning selection of public member of a county officers salary grievance committee.

**ID# 38660.** Request from the Honorable Jeb McNew, Montague County Attorney, P.O. Box 336, Montague, Texas 76251-0336, concerning use of county jail inmates to cut trees on private land in exchange for payment to the county of the proceeds from sale of the wood.

**ID# 38679.** Request from the Honorable Mark H. Dettman, Midland County Attorney, P.O. Box 2559, Midland, Texas 79702, concerning whether the county attorney or the district attorney is authorized or required to represent Midland County in civil actions.

TRD-9606094



# TEXAS ETHICS COMMISSION

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The Texas Ethics Commission is authorized by Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

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## Texas Ethics Commission

### Advisory Opinions Request

**AOR 361.** File closed. No opinion issued, answered by letter.

Issued in Austin, Texas, on April 30, 1996

TRD-9606021      Tom Harrison  
Executive Director  
Texas Ethics Commission

Filed: May 1, 1996



**AOR 363** The Texas Ethics Commission has been asked to interpret the requirement that a personal financial statement filed under the Government Code, Chapter 572 contain a listing of all shares of stock held or acquired during the year covered by the statement. Specifically, the request asks whether "an investment account in which the account managers make all decisions regarding selection of investments as well as when to buy and sell may be reported as a single entity or whether each individual holding must be listed."

Issued in Austin, Texas, on May 1, 1996.

TRD-9606064      Tom Harrison  
Executive Director  
Texas Ethics Commission

Filed: May 2, 1996



# PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the **Texas Register** at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

## Title 13. CULTURAL RESOURCES

### Part I. Texas State Library and Archives Commission

#### Chapter 1. Library Development

##### Library Services and Construction Act Annual Program and Long Range Plan

###### • 13 TAC §1.21

The Texas State Library and Archives Commission proposes an amendment to §1.21, concerning the federal Library Services and Construction Act Long Range Plan and Annual Program. The documents are the state's application for Library Services and Construction Act funds, as administered by the U.S. Department of Education, and describe the types of financial assistance and services available to libraries and systems of libraries and the qualifications and procedures for receiving, administering and reporting on these funds. The Commission proposes to adopt an updated long range plans for fiscal years 1996-1999 and annual program for fiscal years 1997 by reference.

Edward Seidenberg, Director, Library Development Division has determined that there will be fiscal implications as a result of administering or enforcing this section. There will be no cost of compliance with the rule for small business. The effect on state government for the first five year period the rule will be in effect will be an estimated \$425,000 increase in revenue annually. The effect on local government for the first five-year period the rule will be in effect will be an estimated \$7,250,000 increase in revenue annually.

Edward Seidenberg also has determined that for each year of the first five years the rule as proposed is in effect, the public benefits anticipated as a result of enforcing the rule as proposed will be: enhanced library services through the addition of library materials to public library collections; continuing education for library staff; interlibrary loan services for public, academic, and special libraries; construction of new public libraries; and renovation of existing public libraries. There will be no economic cost to individuals who are required to comply with the rule as proposed or to small businesses.

Comments may be submitted to Edward Seidenberg, Library Development Division, Texas State Library, Box 12927, Austin, Texas 78711-2927, within 30 days of publication in the *Texas Register*.

The amendment is proposed under Government Code §441.009 that provides Texas State Library and Archives Commission with the authority to adopt a state plan for improving library services in Texas.

Government Code §1.21 is affected by the proposed amendment.

*§1.21. Library Services and Construction Act Application for Federal Funding.* The Texas State Library and Archives Commission adopts by reference the Library Services and Construction Act Annual Program, **1997** [1994, the Library Services and Construction Act Annual Program, 1995, and the Library Services and Construction Act Annual Program, 1996], and Long Range Plan [1994-1997,

Long Range Plan 1994-1997 (amended July 1994), and Long Range Plan] 1996-1999 (**revised July 1996**). Copies may be obtained from the Library Development Division of the Texas State Library, P.O. Box 12927, Austin Texas 78711.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 30, 1996.

TRD-9605929

Raymond Hitt  
Assistant State Librarian  
Texas State Library and Archives Commission

Earliest possible date of adoption: June 10, 1996

For further information, please call: (512) 463-5460

## TITLE 22. EXAMINING BOARDS

### Part VI. Texas State Board of Registration for Professional Engineers

#### Chapter 131. Practice and Procedure

##### Application for Registration

###### • 22 TAC §131.54, §131.56

The Texas State Board of Registration for Professional Engineers proposes amendments to §131.54 and §131.56, concerning application for registration. An amendment to subsection (f) of §131.54 is necessary because the Educational Testing Service has changed the scoring scale of the Test of Spoken English to a maximum score of 60 and the current section requires a score of 200 or above, which makes it impossible for an application for registration to be accepted under this section. The board is amending §131.56 to simplify comity registration by accepting a National Council of Examiners for Engineering and Surveying certification as verification of an applicant's educational qualifications, experience, references, and registration in other states.

John R. Speed, P.E., Executive Director, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Speed also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be clear, concise and correct requirements and standards pertaining to the submission and acceptance of applications for registration. There will no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rules as proposed.

Comments on the proposals may be submitted to John R. Speed, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The amendments are proposed under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.



Texas Civil Statutes, Article 3271a, §12 and §21 are affected by these proposed amendments.

*§131.54. General Application Information.*

(a)-(e) (No change.)

(f) Applicants must be able to speak and write the English language. An applicant who is a native of a country in which the primary language is other than English, shall be required to include with his application evidence that the applicant has passed a TOEFL (Test of English as a Foreign Language) with a score of 550 or above, and a TSE (Test of Spoken English) with a score of **45** [200] or above. These tests shall have been taken within two years of the time the application is submitted if the applicant has lived in a non-English speaking country for more than two consecutive years after initially taking the test. An applicant who has received a four-year degree from an ABET-accredited course or who has successfully completed at least six semesters of full-time academic work toward an advanced engineering degree in the United States shall be **exempt** [exempted] from this requirement. An applicant may request exemption from the TOEFL and TSE requirements for other reasons by submitting substantiating evidence and documentary proof of his English proficiency which is satisfactory to the executive director.

(g) (No change.)

*§131.56. Certification of Qualification.* If a properly executed National Council of Examiners for Engineering and Surveying certification of an applicant's qualifications for registration is provided, it will be accepted as verification of the applicant's educational qualifications, **experience, references** and registration in other states. **The board may require the submission of additional information concerning experience and references for clarification or to meet other requirements.** In such instance, transcripts to verify educational requirements and verification of registration in other states by use of board forms will not be required. This certification will not be accepted in lieu of any other required application information.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 30, 1996.

TRD-9605934      John R. Speed, P.E.  
Executive Director  
Texas State Board of Registration for Professional  
Engineers

Proposed date of adoption: June 19, 1996

For further information, please call: (512) 440-7723



## Education

### • 22 TAC §131.92

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.92, concerning foreign degrees. Paragraph (2) of subsection (a) is amended to reinstate acceptance of engineering degrees accredited by the Accreditation Board for Engineering and Technology (ABET) counterpart organizations in Australia, Canada, Ireland, New Zealand and the United Kingdom. Information is now available from ABET regarding the equivalency of these degrees to a United States education which will result in a simplified registration process for applicants who have acceptable degrees from these countries.

John R. Speed, P.E., Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Speed also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing

the rule will be simplification of the registration process for applicants who possess degrees which have been approved by the ABET counterpart organizations in Australia, Canada, Ireland, New Zealand and the United Kingdom. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to John R. Speed, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The amendment is proposed under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

Texas Civil Statutes, Article 3271a, §12 is affected by this proposed amendment.

*§131.92. Foreign Degrees.*

(a) An individual who has completed his undergraduate engineering education and received the equivalent of a baccalaureate degree from an institution other than one located in the United States or its possessions must apply under the Texas Engineering Practice Act (the Act), §12(a)(2), except as follows.

(1) (No change.)

(2) Applicants having degrees accredited by the **ABET counterpart organizations in Australia, Canada, Ireland, New Zealand, and/or the United Kingdom** [Canadian Accreditation Board that are published in the ABET annual report] may apply under the Act, §12(a)(1). **Verification from the ABET counterpart organizations (such as an Engineering Council) in the foreign country where the engineering degrees were awarded must be submitted with the application for registration. The verification must include the statement that such engineering degrees were suitable for registration purposes as a professional or chartered engineer in that country at the time the degree was awarded.**

(3) (No change.)

(b)-(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 30, 1996.

TRD-9605935      John R. Speed, P.E.  
Executive Director  
Texas State Board of Registration for Professional  
Engineers

Proposed date of adoption: June 19, 1996

For further information, please call: (512) 440-7723



## Examinations

### • 22 TAC §131.101

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.101, concerning engineering examinations required for registration as a professional engineer. Paragraph (2) of subsection (a) is amended to clarify that graduate students may take the fundamentals of engineering examination at their school provided the school will administer the examination, and that the student meets the educational requirements established in subparagraphs (A) through (C) of the paragraph. Paragraph (3) of subsection (a) is amended to eliminate language which infers that the fundamentals of engineering examination may be taken at any time. The examinations are only offered once in the spring and fall of each year.

John R. Speed, P.E., Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Speed also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be clarification of the eligibility and scheduling requirements for the fundamentals of engineering examination. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to John R. Speed, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The amendment is proposed under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

Texas Civil Statutes, Article 3271a, §12 is affected by this proposed amendment.

*§131.101. Engineering Examinations Required for Registration as a Professional Engineer.*

(a) The written examinations required under the Texas Engineering Practice Act (the Act), §12(a)(1) and (2), will consist of an eight-hour fundamentals of engineering examination and an eight-hour principles and practice of engineering examination. Normally, these examinations will be offered twice each year, once in the first six months (April) and once in the second six months (October) of each calendar year. Written examinations will be held in Austin or places designated by the board.

(1) (No change.)

(2) **A graduate student** [Students who have a degree in a non-engineering related curriculum and who are enrolled in an EAC/ABET-accredited graduate degree program having an undergraduate degree that is EAC/ABET accredited, or an engineering or engineering-related science program that has been approved by the board and who have completed a minimum of 20 semester hours of graduate level engineering courses] may take the fundamentals of engineering examination at their school **provided the school will administer the examination as prescribed by the board, the student is enrolled in an EAC/ABET-accredited graduate program at an institution which has an EAC/ABET-accredited undergraduate degree program in that discipline, and the student has:**

**(A) a baccalaureate degree that is EAC/ABET-accredited;**

**(B) an engineering or engineering-related science program degree that has been approved by the board; or**

**(C) a non-engineering related curriculum or a foreign degree in which the student has provided evidence acceptable to the executive director as meeting the minimum requirements of §12(a)(1) or (2).**

(3) Individuals who appear to meet the educational requirements for registration and who have not passed the fundamentals of engineering examination while in college may apply to the board to take the examination in Austin or at other sites designated by the board. The individual may schedule and take the examination [at any time] provided the examination policy is followed and the appropriate fee for each examination is paid.

(b)-(g) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 30, 1996.

TRD-9605936 John R. Speed, P.E.  
Executive Director  
Texas State Board of Registration for Professional Engineers

Proposed date of adoption: June 19, 1996

For further information, please call: (512) 440-7723

◆ ◆ ◆  
**Registration**

**• 22 TAC §131.133**

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.133, concerning certificates of registration. In paragraph (16) of subsection (b), sanitary engineering is being deleted because the National Council of Examiners for Engineering and Surveying (NCEES) has combined that discipline with civil engineering; therefore, a separate principles and practice examination in sanitary engineering is no longer available. Paragraph (7) is being added to subsection (c) to indicate that sanitary engineering was previously recognized as a branch of engineering practice.

John R. Speed, P.E., Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Speed also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be a correct list of the branches of engineering which applications for registration will be accepted under because there is a principles and practice examination available from NCEES. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to John R. Speed, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The amendment is proposed under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

Texas Civil Statutes, Article 3271a, §12 is affected by this proposed amendment.

*§131.133. Certificates of Registration.*

(a) (No change.)

(b) Applications for registration will be accepted only for the branches of engineering for which there is an available principles and practice examination from the National Council of Examiners for Engineering and Surveying (NCEES), and the board records annotated with the corresponding alphabetical code as follows:

(1)-(15) (No change.)

(16) **(B) structural.** [(S) sanitary;]

[(17) (B) structural.]

(c) The board previously recognized certain other branches of engineering practice for which there are presently no NCEES examinations, but board records were annotated with the corresponding alphabetical code as follows:

(1)-(5) (No change.)

(6) (D) ceramic;

**(7) (S) sanitary.**

(d) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 30, 1996.

TRD-9605937 John R. Speed, P.E.  
Executive Director  
Texas State Board of Registration for Professional Engineers

Proposed date of adoption: June 19, 1996

◆ ◆ ◆  
**TITLE 28. INSURANCE**

**Part I. Texas Department of Insurance**

**Chapter 5. Property and Casualty Insurance**

**Subchapter E. Texas Catastrophe Property Insurance Association**

**Plan of Operation**

**• 28 TAC §5.4001**

The Commissioner of Insurance proposes an amendment to §5.4001, the plan of operation of the Texas Catastrophe Property Insurance Association (TCPA). Pursuant to the Catastrophe Property Insurance Pool Act (Article 21.49 of the Insurance Code), the TCPA was created by the Texas Legislature in 1971 and is composed of all property insurers authorized to transact property insurance in Texas. The purpose of the TCPA is to provide windstorm and hail insurance coverage to residents in designated catastrophe areas who are unable to obtain such coverage in the voluntary market. Since its inception, the TCPA has provided this coverage to residents of 14 coastal counties, including Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio and Willacy. Pursuant to Commissioner's Order Number 95-1200 (November 14, 1995), effective March 1, 1996, the TCPA provides coverage to residents in two additional coastal areas—the area located east of a boundary line of State Highway 146 and inside the city limits of the City of Seabrook (Harris County) and the area located east of the boundary line of State Highway 146 and inside the city limits of the City of La Porte (Harris County). Pursuant to Commissioner's Order Number 96-0380 (April 5, 1996), effective June 1, 1996, the TCPA will also provide coverage in the City of Morgan's Point (Harris County). The proposed amendment is necessary to amend subsection (e) of the plan of operation, relating to Building Codes, to include the City of Morgan's Point as a designated catastrophe area that is subject to the TCPA building code specifications and standards and to the Department's Windstorm Inspection Program. It is proposed that subsection (e)(3) be amended to add a new subparagraph (C) to provide that the City of Morgan's Point is subject to the building code requirements set forth in subsection (e) of the plan of operation. Also, under the proposed amendments, subsection (e)(4) is amended to add a new subparagraph (D) to provide that a structure constructed, repaired, or to which additions were made on and after January 1, 1988 and before June 1, 1996, that is located in the City of Morgan's Point shall be considered approved by the Commissioner of Insurance as being in compliance with the TCPA's inland building code requirements contained in paragraph 2 of subsection (e) (Standard Building Code, 1973 Edition) and, therefore, shall be considered insurable property by the TCPA if the owner of the structure presents to the TCPA at the time of application a statement, as specified in proposed new subparagraph (D), signed by a city building official. In the statement, the city building official shall affirm that to his/her best belief and knowledge, the structure to be insured by the TCPA was constructed, repaired or an addition was made on and after January 1, 1988 and before June 1, 1996, in accordance with building specifications and standards which comply with the Standard Building Code (1973 Edition) or an equivalent recognized code, and that the City of Morgan's Point has inspected the structure and enforced compliance to said code. It is also proposed that a new subparagraph (E) be added to subsection (e)(4) to provide that a structure constructed, repaired, or to which additions were made on and after June 1, 1996, that is located in the City of Morgan's Point shall be considered an insurable property for windstorm and hail insurance from the TCPA only if the structure is inspected or approved by the Commissioner of Insurance for compliance with building specifications as provided in the plan of operation, including any specifications for roofing materials as provided in Article 21.49, §6A(a) of the Insurance Code. In addition, it is proposed that currently existing subparagraphs (A), (B), and (C) of subsection (e)(4) be amended to add catchlines for easier reference. These amendments are proposed to be effective July 15, 1996.

Lyndon Anderson associate commissioner, property and casualty division, has determined that for each year of the first five years the proposed amendment is in effect, there will be no fiscal implications as a result of enforcing or administering the section to state and local government, except for the minimal cost to the City of Morgan's Point to issue the compliance certification required in proposed subsection (e)(4)(D).

Mr. Anderson also has determined that for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the section will be that structures insured by the TCPA in the City of Morgan's Point will be subject to the same building code and inspection requirements as other structures insured by the TCPA. This will result in the availability of windstorm and hail insurance from the TCPA for those individuals with property located in the City of Morgan's Point. Many of these individuals have been unable to purchase such insurance or have purchased insurance through an unlicensed insurer at extremely high costs. As a result of the designation of the City of Morgan's Point as a catastrophe area, these individuals will be able to purchase windstorm and hail insurance through the TCPA and may realize substantial savings in premium dollars. The availability of windstorm and hail insurance in the City of Morgan's Point will reverse any trend of reduced resale value of property because of windstorm and hail insurance being unavailable to the purchaser of existing properties. For each year of the first five years, the proposed amendments will be in effect, the cost for inspections required by proposed subsection (e) (4)(E) for applicants to the TCPA for windstorm and hail insurance for structures constructed on and after June 1, 1996, located in the City of Morgan's Point is \$100 for new structures, and for additions and repairs made on and after June 1, 1996, the cost for inspections is \$35. There will be no effect on small business as a result of enforcing or administering the section.

Comments on the proposed amendment must be submitted within 30 days after publication of the proposed amendment in the *Texas Register* to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment is to be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Program, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104. Article 21.49, §5A of the Insurance Code requires a hearing to be held before any orders may be issued pursuant to Article 21.49 and provides that any person may appear and testify for or against the adoption of this proposal.

The amendment is proposed pursuant to the Insurance Code, Articles 21.49 and 1.03A, and the Government Code §§2001.004-2001.038. Article 21.49, §3(h) authorizes the Commissioner to designate a city or a part of a city or a county or a part of a county as a catastrophe area to be served by the TCPA upon determination, after notice of not less than 10 days and hearing, that windstorm and hail insurance is not reasonably available to a substantial number of owners of insurable property within that city or a part of that city or county or a part of that county that is subject to unusually frequent and severe damage resulting from windstorms and/or hailstorms. Pursuant to Commissioner's Order Number 96-0380, effective June 1, 1996, the City of Morgan's Point is designated by the Commissioner of Insurance as a catastrophe area eligible for windstorm and hail insurance coverage through the TCPA. Article 21.49, §6A specifies building code requirements and approval or inspection procedures for windstorm and hail insurance through the TCPA. Article 21.49, §5(c) of the Insurance Code provides that the Commissioner of Insurance by rule shall adopt the TCPA plan of operation with the advice of the TCPA board of directors. Section 5(f) of Article 21.49 provides that any interested person may petition the Commissioner to modify the plan of operation in accordance with the Administrative Procedure Act (Government Code title 10, subtitle A, ch. 2001). Article 21.49, §5, subsections (c) and (f), by their terms, delegate the foregoing authority to the State Board of Insurance. However, under Article 1.02 of the Insurance Code, a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Article 1.03A authorizes the Commissioner of Insurance to adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code, §§2001.004-2001.038 (Administrative Procedure Act) authorizes

and requires each state agency to adopt rules of practice stating the nature and requirements of available formal and informal procedures and prescribe the procedures for adoption of rules by a state agency.

The following statute is affected by this proposal: Insurance Code, Article 21.49.

*§5.4001. Plan of Operation.*

(a)-(d) (No change.)

(e) Building Codes.

(1)-(2) (No change.)

(3) Limitations on applicability of building codes. Notwithstanding any other provisions of this section, the building code set forth in this subsection shall be applicable only in:

(A) the counties of Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, and Willacy; [and]

(B) the area located east of the boundary line of State Highway 146 and inside the city limits of the City of Seabrook (Harris County) and the area located east of the boundary line of State Highway 146 and inside the city limits of the City of La Porte (Harris County); [.] **and**

(C) **the City of Morgan's Point (Harris County).**

(4) Insurable property for windstorm and hail insurance.

(A) **For structures before January 1, 1988 in all designated catastrophe areas.** A structure constructed, repaired, or to which additions were made before January 1, 1988, that is located in an area covered at the time by a building code recognized by the association shall be considered an insurable property for windstorm and hail insurance from the association without compliance with the inspection or approval requirements of Insurance Code, Article 21.49, §6A(a) or the plan of operation. A structure constructed, repaired, or to which additions were made before January 1, 1988, that is located in an area not covered by a building code recognized by the association shall be considered an insurable property for windstorm and hail insurance from the association without compliance with the inspection or approval requirements of Insurance Code, Article 21.49, 6A(a) or the plan of operation if that structure has been previously insured by a licensed insurance company authorized to do business in this state and the risk is in essentially the same condition as when previously insured, except for normal wear and tear, and without any structural change other than a change made according to code. Evidence of previous insurance includes a copy of a previous policy, copies of canceled checks or agent's records that show payments for previous policies, and a copy of the title to the structure or mortgage company records that show previous policies.

(B) **For structures in designated catastrophe areas of Seabrook and La Porte from January 1, 1988 to March 1, 1996.** A structure constructed, repaired, or to which additions were made on and after January 1, 1988 and before March 1, 1996, that is located in an area east of the boundary line of State Highway 146 and inside the city limits of the City of Seabrook (Harris County) or in an area east of the boundary line of State Highway 146 and inside the city limits of the City of La Porte (Harris County) shall be considered approved by the Commissioner of Insurance as being in compliance with the association's inland building code requirements contained in paragraph (2) of this subsection and shall be considered an insurable property for windstorm and hail insurance from the

association if the owner of the structure to be insured by the association presents to the association at the time of application for insurance the following statement signed by a city building official: "To the best belief and knowledge of the undersigned, the structure located at (street address) in (name of city), Texas, was constructed, repaired, or an addition was made on and after January 1, 1988 and before March 1, 1996 in accordance with the building specifications and standards which comply with the Standard Building Code (1973 Edition) or an equivalent recognized code; and the City of (name of city), Texas has inspected the structure and enforced compliance to said code."

(C) **For structures in the designated catastrophe areas of Seabrook and La Porte on and after March 1, 1996.** A structure constructed, repaired, or to which additions were made on and after March 1, 1996, that is located in an area east of the boundary line of State Highway 146 and inside the city limits of the City of Seabrook (Harris County) or in an area east of the boundary line of State Highway 146 and inside the city limits of the City of La Porte (Harris County) shall be considered an insurable property for windstorm and hail insurance from the association only if the structure is inspected or approved by the Commissioner of Insurance for compliance with building specifications in this plan of operation, including any specifications for roofing materials as provided in Article 21.49, §6A(a) of the Insurance Code.

(D) **For structures in the City of Morgan's Point from January 1, 1988 to June 1, 1996.** A structure constructed, repaired, or to which additions were made on and after January 1, 1988 and before June 1, 1996, that is located in the City of Morgan's Point (Harris County) shall be considered approved by the Commissioner of Insurance as being in compliance with the association's inland building code requirements contained in paragraph (2) of this subsection and shall be considered an insurable property for windstorm and hail insurance from the association if the owner of the structure to be insured by the association presents to the association at the time of application for insurance the following statement signed by a city building official: "To the best belief and knowledge of the undersigned, the structure located at (street address) in Morgan's Point, Texas, was constructed, repaired, or an addition was made on and after January 1, 1988 and before June 1, 1996, in accordance with the building specifications and standards which comply with the Standard Building Code (1973 Edition) or an equivalent recognized code; and the City of Morgan's Point, Texas, has inspected the structure and enforced compliance to said code."

(E) **For structures in the City of Morgan's Point on and after June 1, 1996.** A structure constructed, repaired, or to which additions were made on and after June 1, 1996, that is located in the City of Morgan's Point (Harris County); shall be considered an insurable property for windstorm and hail insurance from the association only if the structure is inspected or approved by the Commissioner of Insurance for compliance with building specifications in this plan of operation, including any specifications for roofing materials as provided in Article 21.49, §6A(a) of the Insurance Code.

(f) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 1, 1996.

TRD-9605983

Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Earliest possible date of adoption: June 10, 1996

◆ ◆ ◆  
**Manual**

◆ ◆ ◆  
**• 28 TAC §5.4501**

The Commissioner of Insurance proposes an amendment to §5.4501, concerning the adoption by reference of a revised manual of rules governing the writing of windstorm and hail insurance by the Texas Catastrophe Property Insurance Association (TCPIA), pursuant to Article 21.49 of the Insurance Code. Pursuant to the Catastrophe Property Insurance Pool Act (Article 21.49 of the Insurance Code), the TCPIA was created by the Texas Legislature in 1971 and is composed of all property insurers authorized to transact property insurance in Texas. The purpose of the TCPIA is to provide windstorm and hail insurance coverage to residents in designated catastrophe areas who are unable to obtain such coverage in the voluntary market. Since its inception, the TCPIA has provided this coverage to residents of 14 coastal counties, including Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio and Willacy. Pursuant to Commissioner's Order Number 95-1200 (November 14, 1995), effective March 1, 1996, the TCPIA provides coverage to residents in two additional coastal areas—the area located east of a boundary line of State Highway 146 and inside the city limits of the City of Seabrook (Harris County) and the area located east of the boundary line of State Highway 146 and inside the city limits of the City of La Porte (Harris County). Pursuant to Commissioner's Order Number 96-0380 (April 5, 1996), effective June 1, 1996, the City of Morgan's Point (Harris County) will become eligible for coverage through the TCPIA. The revised manual is necessary to incorporate rule amendments to provide for the applicability of the TCPIA's building code and inspection requirements to the newly designated catastrophe area of the City of Morgan's Point. The proposed amendments to the TCPIA manual include amending Rule C, relating to Determination of Territory (Catastrophe Areas), in Section I—General Rules to add a new subdivision 3 to include the City of Morgan's Point (Harris County) as a designated catastrophe area. It is also proposed that Rule D, relating to Insurable Property, in Section I—General Rules, be amended (i) to designate as subdivision 4-a the current provisions relating to approval requirements for structures constructed, repaired, or to which additions were made on and after January 1, 1988, and before March 1, 1996, in the designated catastrophe areas in the cities of Seabrook and La Porte and (ii) to add a new subdivision 4-b to provide that structures constructed, repaired or to which additions were made on and after January 1, 1988 and before June 1, 1996 that are located in the City of Morgan's Point are approved as complying with the TCPIA inland building code (1973 Edition, Standard Building Code) if the City of Morgan's Point has issued to the owner of the property a statement signed by a city building official that the structure was constructed, repaired, or an addition was made in accordance with the building specifications and standards which comply with the Standard Building Code, (1973 Edition) or an equivalent recognized code; and the City of Morgan's Point inspected the structure and enforced compliance to said code. Under the proposed amendment, this signed statement must be provided to the TCPIA upon application to the TCPIA for windstorm and hail insurance and shall be considered evidence of the insurability of the structure by the TCPIA. It is also proposed that Rule D, relating to Insurable Property, in Section I—General Rules, be amended to add a new subdivision 5-b to provide that a structure constructed, repaired, or to which additions were made on and after June 1, 1996, that is located in the City of Morgan's Point and that has been certified by the Texas Department of Insurance as being in compliance with the building specifications of the plan of operation shall be considered insurable property by the TCPIA. A certificate of compliance (Form WPI-8) issued by the Texas Department of Insurance shall be considered evidence of insurability of the structure by the TCPIA. It is proposed that the proposed revised manual be effective July 15, 1996.

Lyndon Anderson associate commissioner, property and casualty division, has determined that for each year of the first five years the proposed amendment is in effect, there will be no fiscal implications as a result of enforcing or administering the section to state and local government, except for the minimal cost to the City of Morgan's Point to issue the compliance certification required in the proposed amendment to Section I, Rule D-4-b.

Mr. Anderson also has determined that for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the section will be that structures insured by the TCPIA in the City of Morgan's Point will be subject to the same building code and inspection requirements as other structures insured by the TCPIA. This will result in the availability of windstorm and hail insurance from the TCPIA for those individuals with property located in the City of Morgan's Point. Many of these individuals have been unable to purchase such insurance or have purchased insurance through an unlicensed insurer at extremely high costs. As a result of the designation of the City of Morgan's Point as a catastrophe area, these individuals will be able to purchase windstorm and hail insurance through the TCPIA and may realize substantial savings in premium dollars. The availability of windstorm and hail insurance in the City of Morgan's Point will reverse any trend of reduced resale value of property because of windstorm and hail insurance being unavailable to the purchaser of existing properties. For each year of the first five years in which the proposed amendment will be in effect, the cost for inspections required by the proposed amendment for applicants to the TCPIA for windstorm and hail insurance for structures constructed on and after June 1, 1996, will be \$100 for new structures; and for additions made on and after June 1, 1996, the costs for inspections will be \$35. There will be no effect on small business as a result of enforcing or administering the proposed amendment.

Comments on the proposal must be submitted within 30 days after publication of the proposed amendment in the *Texas Register* to the Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment is to be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Program, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104. Article 21.49, §5A of the Insurance Code requires a hearing to be held before any orders may be issued pursuant to Article 21.49 and provides that any person may appear and testify for or against the adoption of this proposal.

The amendment is proposed pursuant to the Insurance Code, Articles 21.49 and 1.03A, and the Government Code §§2001.004-2001.038. Article 21.49, §3(h) authorizes the Commissioner to designate a city or a part of a city or a county or a part of a county as a catastrophe area to be served by the TCPIA upon determination, after notice of not less than 10 days and hearing, that windstorm and hail insurance is not reasonably available to a substantial number of owners of insurable property within that city or a part of that city or county or a part of that county that is subject to unusually frequent and severe damage resulting from windstorms and/or hailstorms. Pursuant to Commissioner's Order Number 96-0380, effective June 1, 1996, the City of Morgan's Point is designated by the Commissioner of Insurance as a catastrophe area eligible for windstorm and hail insurance coverage through the TCPIA. Article 21.49, §6A specifies building code requirements and approval or inspection procedures for windstorm and hail insurance through the TCPIA. Article 21.49, §5A authorizes the Commissioner, after notice and hearing, to issue any orders which the Commissioner considers necessary to carry out the purposes of Article 21.49, including, but not limited to, maximum rates, competitive rates and policy forms. Article 21.49, §8 authorizes the Commissioner to approve every manual of classifications, rules, rates, rating plans, and every modification of any of the foregoing for use by the TCPIA. Articles 21.49, §§5A, 6A, and 8, by their terms delegate the foregoing authority to the State Board of Insurance; however, under Article 1.02 of the Insurance Code, a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02. Article 1.03A authorizes the Commissioner of Insurance to adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code §§2001.004-2001.038 (Administrative Procedure Act) authorize and require each state agency to adopt rules of practice stating the nature and requirements of available formal and informal procedures and prescribe the procedures for adoption of rules by a state agency.

The following statute is affected by this proposal: Insurance Code, Article 21.49.

§5.4501. *Rules and Regulations for the Texas Catastrophe Property Insurance Association (association).* The Texas Department of Insurance adopts by reference a rules manual for the association as amended effective **July 15, 1996** [April 15, 1996]. Copies of the rules manual may be obtained by contacting the Property/Casualty Division, Mail Code 103-1A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 1, 1996.

TRD-9605982      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Earliest possible date of adoption: June 10, 1996

For further information, please call: (512) 463-6327

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 85. Admission and Placement

##### Placement Planning

##### • 37 TAC §§85.23, 85.25, 85.29

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Youth Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Youth Commission (TYC) proposes the repeal of §§85.23, 85.25, and 85.29, concerning classification, minimum length of stay, and program completion and movement. These sections are being repealed and new replacement sections proposed in this publication to allow changes in rules of operation which are more consistent with legislative intent and agency mission regarding committed juvenile delinquents.

John Franks, Director of Finance, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Franks also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the replacement by new rules which encourage more efficient agency operation. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The repeals are proposed under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the accomplishment of its functions.

The proposed rule implements the Human Resource Code, §61.034.

##### §85.23. *Classification.*

##### §85.25. *Minimum Length of Stay.*

##### §85.29. *Program Completion and Movement.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 1996.

TRD-9605875

Steve Robinson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption: June 10, 1996

For further information please call: (512) 483-5244

##### • 37 TAC §§85.23, 85.25, 85.29

The Texas Youth Commission (TYC) proposes new §§85.23, 85.25, and 85.29, concerning classification, minimum length of stay, and program completion and movement. New §85.23 establishes a system for classifying youth admitted to TYC which can be consistently applied and which ensures consistent management of each youth. New §85.25 establishes a minimum period of time youth committed to TYC will spend in residential placements of high or medium restriction having limited or no access to the public and which is based on the most extreme offense the youth committed. New §85.29 provides criteria and a process whereby TYC staff may determine when a youth including a sentenced offender has completed a program, is eligible to be moved to another program, released home, placed on parole status, or be transferred to the Department of Criminal Justice.

John Franks, Director of Finance, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Franks also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a system for assigning youth to placements and consistent movement through the TYC system. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78765.

The new sections are proposed under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to order confinement under conditions it believes best designed for the youth's welfare and the interests of the public.

The proposed rules implement the Human Resource Code, §61.034.

##### §85.23. *Classification.*

(a) Purpose. The purpose of this rule is to establish a system for classifying each youth admitted to TYC which can be consistently applied and ensures consistent management of each youth.

##### (b) Explanation of Terms Used.

(1) Classification-the designation assigned each youth based on the youth's offense history, the classifying offense, and a finding regarding extenuating circumstances incident to the classifying offense. A youth who commits an offense while in TYC custody may be administratively reclassified through a Level I hearing.

(2) Classifying Offense-the offense on which classification is based. It is the most serious of the relevant offenses documented in the youth's record. Relevant offenses are:

(A) on commitment, the committing offense and any offense(s) for which the youth was on probation at the time of the committing offense; or

(B) following a level I hearing, the offense(s) found at the hearing.

(3) Committing Offense-the most serious of the offenses found at the youth's most recent judicial proceeding.

(4) Most Serious Offense-the offense having the most severe consequences attached. The most serious offense is determined according to the following hierarchy, with each subsequent factor being considered only if two or more relevant offenses yield the same result under the preceding factor. If two or more offenses yield the same results through all steps of the hierarchy, determination of the most serious offense is left to the discretion of the staff assigning classification. The most serious offense is:

(A) an offense which carries determinate sentence;

(B) the offense for which the designated minimum length of stay will produce the longest time in the physical custody of TYC;

(C) the offense which requires the highest level of restriction in placement;

(D) the offense which carries the most severe criminal penalty; and

(E) the most recently adjudicated offense.

(5) Federal Offenses-youth who have committed federal offenses and are sent to TYC by Federal courts. If a committing and/or classifying offense is a violation of a federal statute, the offense will be treated as a violation of a state statute which prohibits the same conduct as the relevant federal statute. Federal violations will be identified by the code number assigned to the corresponding substantive state statute preceded by an "F".

(c) Classifications.

(1) Sentenced Offender. A sentenced offender is a youth committed to TYC pursuant to §54.04(d)(3) or §54.05(f) Family Code for offenses committed:

(A) prior to January 1, 1996, for:

- (i) murder, 19.02, all;
- (ii) capital murder, 19.03, all;
- (iii) aggravated kidnapping, 20.04, all;
- (iv) aggravated sexual assault, 22.021, all;
- (v) deadly assault on a law enforcement officer, corrections officer, or court participant, 22.03;
- (vi) criminal attempt, 15.01, only if the offense attempted was Capital Murder (§19.03);

(B) on or after January 1, 1996, for an offense listed in subsection (c)(1)(A) of this section or:

- (i) sexual assault, 22.011, all;
- (ii) aggravated assault, 22.02, all;
- (iii) aggravated robbery, 29.03, all;
- (iv) injury to a child, elderly individual, or disabled individual, 22.04, first, second or third degree felony only;
- (v) deadly conduct, 22.05, felony only;
- (vi) aggravated or first degree controlled substances felony, subchapter D, Chapter 481 Health and Safety Code, aggravated or first degree felony only;
- (vii) criminal solicitation, 15. 03, all;
- (viii) indecency with a child, 21. 11, second degree felony only;

(ix) criminal solicitation of a minor, 15.031, all;

(x) criminal attempt, 15.01, only if offense attempted was a murder (§19. 02), indecency with a child (§21.11(a)(1), aggravated kidnapping (§20.04), sexual assault 22.011(a)(2) upon a child only, aggravated sexual assault (§22.021), aggravated robbery (§29.03), or repeat conviction under Health and Safety Code 481.134(c), (d), (e), or (f);

(xi) habitual felony conduct as defined in Juvenile Justice Code, 51.031.

(2) Type A-Violent Offender. A type A violent offender is a youth whose classifying offense is one of the offenses listed in this paragraph and who has not been sentenced to commitment in TYC. TYC adopts the Texas Penal Code definition (Title 5) for each offense in its entirety except where TYC policy limits the applicability to the specific subsections or under the conditions named:

(A) murder, 19.02, all;

(B) capital murder, 19.03, all;

(C) sexual assault, 22.011, all (for youth classified on or after July 1, 1996);

(D) aggravated sexual assault, 22.021, all (for youth classified on or after July 1, 1996);

(E) criminal attempt, 15.01, if the offense attempted was murder (§19.02) or capital murder (§19. 03), or any Type A violent offense for which classified on or after July 1, 1996;

(F) criminal conspiracy, 15.02, if offense conspired was any Type A violent offense for which classified on or after July 1, 1996;

(G) criminal solicitation, 15.03, if offense solicited was any Type A violent offense for which classified on or after July 1, 1996;

(H) criminal solicitation of a minor, 15.031, if offense solicited was any Type A violent offense for which classified on or after July 1, 1996.

(3) Type B-Violent Offender. A type B violent offender is a youth whose classifying offense is the commission, attempted commission, conspiracy to commit, solicitation, or solicitation of a minor to commit one of the offenses listed in this paragraph and who has not been sentenced to commitment in TYC. TYC adopts the Texas Penal Code definition for each offense listed in (A-S) of this subsection in its entirety except where TYC policy limits the applicability to specific subsections or under the conditions named:

(A) manslaughter, 19.04, all;

(B) kidnapping, 20.03, all;

(C) aggravated kidnapping, 20.04, all;

(D) indecency with a child, 21.11, second degree felony only;

(E) sexual assault, 22.011, all (only for youth classified before July 1, 1996);

(F) aggravated assault, 22.02, all;

(G) aggravated sexual assault, 22.021, all (only for youth classified before July 1, 1996);

(H) injury to child, elderly or disabled individual, 22.04, first, second or third degree felony only;

(I) deadly conduct, 22.05, felony only;

(J) aiding suicide, 22.08, felony only;

(K) tampering with a consumer product, 22.09, first or second degree felony only;

(L) arson, 28.02, all;

(M) aggravated robbery, 29.03, all;

(N) burglary, 30.02, only with intent to commit any other violent offense defined in this paragraph;

(O) intoxication manslaughter, 49.08, all;

(P) criminal attempt, 15.01, if the offense attempted was sexual assault, (§22.011), or aggravated sexual assault (§22.021) for which classified before July 1, 1996, or any Type B violent offense;

(Q) criminal conspiracy, 15.02, if offense conspired was a Type A violent offense for which classified before July 1, 1996, or any Type B violent offense;

(R) criminal solicitation, 15.03, if offense solicited was a Type A violent offense for which classified before July 1, 1996, or any Type B violent offense;

(S) criminal solicitation of a minor, 15.031, if offense solicited was a Type A violent offense for which classified before July 1, 1996, or any Type B violent offense;

(T) intentionally participating with six or more persons in conduct at a TYC facility that endangers persons or property and substantially obstructs the performance of facility operations;

(U) intentionally, knowingly, or recklessly causing bodily injury to a TYC:

(i) employee;

(ii) contract program employee; or

(iii) volunteer.

(4) Chronic Serious Offender. A chronic serious offender is a youth whose classifying offense is a felony and who has been found to have committed at least one felony in each of at least three separate and distinct due process hearings, where the second felony was committed after the disposition of the first felony and the third felony was committed after the disposition of the second felony.

(5) Controlled Substances Dealer. A controlled substances dealer is a youth whose classifying offense is any felony grade offense defined as a manufacture or delivery offense under the Texas Controlled Substances Act, Chapter 481, Health and Safety Code.

(6) Firearms Offender. A firearms offender is a youth whose classifying offense involved a finding by the court or TYC hearings examiner that the youth possessed a firearm during the offense. Classifying offenses for this classification are not limited to offenses specified in Chapter 46 of the Texas Penal Code.

(7) Violator of CINS Probation (Commitments were allowed prior to January 1, 1996). A violator of CINS probation is a youth who:

(A) is committed for violating terms of probation by an act which would not be punishable by imprisonment or confinement in jail if committed by an adult; and

(B) was on probation at the time of the probation revocation for no act more serious than Conduct Indicating a Need for Supervision (CINS) as defined in the Texas Family Code, Title 3.

(8) General Offender. A general offender is a youth who is not eligible for any other classification.

(d) Extenuating Circumstances.

(1) A designated classification except sentenced offender may be waived and a less restrictive classification assigned by a TYC hearings examiner at a TYC Level I due process hearing when the hearings examiner finds extenuating circumstances.

(2) Extenuating circumstances incident to a violent offense are those facts which indicate that the youth is not a significant danger to the physical or emotional well-being of another. Examples of such facts include, but are not limited to:

(A) the youth was an indirect or passive participant in a violent act;

(B) the youth set fire to an abandoned vehicle;

(C) the youth engaged in consensual sexual intercourse with someone who was capable of appraising the nature of that act and of resisting it.

(3) Extenuating circumstances incident to offenses other than violent offenses are those facts which explain a youth's conduct but do not constitute a legally-recognized defense to the conduct. Examples of such facts include, but are not limited to acts in which:

(A) the only property involved in the offense was of minimal value and was returned undamaged to its owner;

(B) the only bodily injury intended or inflicted by the youth consisted of brief or minor discomfort;

(C) the youth's conduct was an impulsive response to perceived provocation and posed no threat to persons or property;

(D) the youth was persuaded to participate in the offense by a parent or other authority figure.

(4) When extenuating circumstances incident to the classifying offense are found, the designated classification may be waived.



§85.25. *Minimum Length of Stay.*

(a) Purpose. The purpose of this rule is to establish by policy, a minimum period of time a youth will spend in residential placements (high or medium restriction) having limited or no access to the public and which is based on the most extreme offense the youth committed. The maximum period of time a youth may spend in residential placement is the total time until he/she reaches age 21. Release from residential placement anytime prior to age 21 is based on the youth's successful completion of release criteria one of which is the minimum length of time set by the agency.

(b) Applicability.

(1) Except where specifically named, requirements herein do not apply to sentenced offenders. See GOP.47.15 §85.35 of this title (relating to Sentenced Offender Disposition, for additional information). The Texas Youth Commission (TYC) complies with orders of the committing court regarding sentences for youth sentenced to commitment to TYC.

(2) A disciplinary assigned length of stay of up to six months may be assigned in accordance with GOP.63. 11, §91.11 of this title (relating to Disciplinary Transfer/Assigned Minimum Length of Stay Consequences).

(c) Explanation of Terms Used.

(1) Minimum length of stay (MLS)-the factor in the placement and movement system which is the predetermined minimum period of time a youth will be assigned to live in a residential placement. TYC has established two types of minimum lengths of stay requirements for TYC youth, classification MLS and assigned disciplinary MLS. This rule primarily addresses classification MLS.

(2) Minimum period of confinement-the period of time established by law that a youth sentenced to commitment in TYC for offenses occurring on or after January 1, 1996, shall be confined in a TYC residential placement. The minimum period of confinement is 10 years for youth sentenced for capital murder; three years for youth sentenced for an aggravated controlled substance felony or a felony of the first degree; two years for a felony of the second degree; and one year for a felony of the third degree or completion of the sentence, whichever occurs first.

(3) Classification MLS-a minimum length of stay directly associated with each classification established on initial commitment, for youth recommitted for the commission of a felony or high-risk offense, and for youth found at an administrative level I hearing to have committed a felony or high-risk offense. Classification minimum lengths of stay of youth classified before January 1, 1996 may include creditable time for events occurring prior to commitment.

(4) Assigned disciplinary MLS-the minimum length of stay assigned to a youth as a disciplinary consequence for behavior which may occur anytime a youth is in a residential setting.

(d) Minimum Length of Stay.

(1) Sentenced offenders shall serve the time assessed by the juvenile court.

(2) Type A violent offenders must complete a minimum of 24 months.

(3) Type B violent offenders must complete a minimum length of stay of 12 months.

(4) Chronic serious offenders, controlled substances dealers, and firearms offenders must complete a minimum length of stay of 12 months if classified on or after January 1, 1996 or nine months if classified before that date.

(5) General offenders must complete a minimum length of stay of nine months if classified on or after January 1, 1996, or six months if classified before that date.

(e) Creditable Time.

(1) On initial classification, the minimum length of stay shall be counted from the first day a youth reaches any TYC operated or assigned facility.

(2) On recommitment:

(A) the minimum length of stay shall be counted from the first day a youth reaches any TYC operated or assigned facility and any incomplete MLS at the time of recommitment is eliminated; or

(B) a youth recommitted for the same offense(s) for which a level I or II hearing has already been held shall be given credit toward completion of the new MLS for the time already served as a result of that level I or II hearing.

(3) On reclassification, if previous classification MLS:

(A) has been completed, the new classification minimum length of stay shall be counted from the date of the most recent due process hearing;

(B) has not yet been completed, the new classification minimum length of stay shall be counted from the completion of the previous MLS.

(4) After the count begins, all time spent in program, on furlough or in detention or jail (except as a disposition in a criminal case) will be counted toward meeting a minimum length of stay requirement.

(5) Time spent as an escapee from a TYC placement or time spent in jail or a court ordered placement in an adult correctional residential program as disposition in a criminal case shall not be counted toward meeting the minimum length of stay requirement.

(f) Creditable Time for Sentenced Offenders.

(1) On initial classification, the minimum period of confinement shall be counted from the first day a youth reaches any TYC operated or assigned facility. Only time spent in a TYC assigned facility shall be credited toward completion of minimum period of confinement.

(2) Sentenced offenders will be credited with days, as assessed by the court, detained in connection with the committing offense. Time will be credited at the end of the total sentence.

(g) Restrictions.

(1) All minimum lengths of stay will run consecutively except when a youth is recommitted.

(2) Classification MLSs must be completed before any assigned disciplinary MLS begins.

(3) Youth may be eligible for transition to medium restriction to complete the minimum length of stay requirement in accordance with GOP.47.09, §85.29 of this title (relating to Program Completion and Movement).

(h) Waivers and Reductions.

(1) The classification minimum length of stay requirement may be reduced by the deputy executive director in extenuating circumstances when it is documented that the minimum length of stay is not justified because of the nature of the youth's classifying offense and offense history.

(2) The disciplinary assigned MLS may be reduced in accordance with GOP.63.11, §91.11 of this title (relating to Disciplinary Transfer/Assigned Minimum Length of Stay Consequences).

*§85.29. Program Completion and Movement.*

(a) Purpose. The purpose of this rule is to provide criteria and a process whereby staff may determine when a youth including a sentenced offender has completed a program, is eligible to be moved to another program, released home, placed on parole status, or be transferred to the Department of Criminal Justice.

(b) Applicability.

(1) This rule does not address all types of disciplinary movements. See chapter on Disciplinary Practices.

(2) Additional procedures and restrictions are applied prior to any movement of a sentenced offender youth. See GOP.47.15, §85.35 of this title (relating to Sentenced Offender Disposition).

(3) This rule does not apply to movement for strictly treatment reasons.

(c) Explanation of Terms Used.

(1) Program completion criteria-all of the criteria which a youth must meet while in the current program in order to move to an equal or lesser level of restriction.

(2) Disciplinary movement-a movement to equal or more restriction as a disciplinary consequence if found during appropriate due process. A disciplinary movement may or may not be accompanied by a new minimum length of stay requirement. There are several types of disciplinary movement consequences. These movements are subject to policies in this chapter and in the Disciplinary Practices chapter, 63. For restriction levels see GOP.47.07, §85.27 of this title (relating to Program Restriction Levels).

(3) Administrative transfer-a lateral movement, i.e., a movement from one program to another program within the same restriction level for an administrative purpose. Purposes may include but are not limited to proximity to a youth's home, specific treatment needed becomes available, appropriateness of placement due to education needs, age, etc.

(4) Transition movement-also referred to as "a transition", any movement from one assigned program site to another as a result of a youth's progress toward meeting the program completion criteria of his/her program. Transition is always to placement of equal or less restriction than that of the current placement. Transition is not type of placement or a status.

(5) Parole Status-a status assigned to a youth when criteria have been met. The status assures that a youth, having parole status, shall not be moved into a placement of high restriction without a level I hearing. A youth either earns parole status or is granted parole status under specific conditions.

(d) Program Completion Processes.

(1) Program staff will explain completion criteria to every youth during orientation to each placement.

(2) Prior to a transition movement, a youth may request and in doing so will be granted a level II hearing.

(3) TYC shall not accept the presence of a detainer as an automatic bar to earned release. The agency shall release a youth to authorities pursuant to a warrant.

(4) Progress toward successful completion of criteria shall be evaluated at specific regular intervals.

(5) TYC program staff where the youth is assigned shall determine when criteria have been met.

(6) When criteria have been met, a youth shall be eligible for movement to an equal or less restrictive placement.

(e) Program Completion Criteria and Movement.

(1) High Restriction Program Completion Criteria.

(A) A youth in high restriction will be eligible for transition to medium restriction when the following criteria have been met:

(i) completion of minimum length of stay except three months;

(ii) completion of required Individual Case Plan (ICP) objectives;

(iii) completion of phase three resocialization goals (for youth classified on or after January 1, 1996), (not applicable to youth in contract placements); and

(iv) no major violation of rules of conduct within 30 days prior to the transition review.

(B) A youth who is transitioned under these criteria has not earned and shall not be on parole status. A youth transitioned may be returned to high restriction through a level II due process hearing at any time prior to attaining parole status. After attaining parole, youth shall not be returned to high restriction except through a level I due process hearing.

(2) Residential Programs Completion Criteria.

(A) A youth in any residential program will be eligible for transition to minimum or home level restriction when the following criteria have been met:

(i) completion of the minimum length of stay;

(ii) completion of required Individual Case Plan (ICP) objectives;

(iii) completion of phase four resocialization goals (for youth classified on or after January 1, 1996), (not applicable to youth in contract placements); and

(iv) no major violations of rules of conduct within 30 days:

(I) prior to the case review to determine eligibility for parole release; and

(II) prior to the actual release.

(B) A youth who is transitioned under these criteria has earned and shall be on parole status and thus shall not be returned to a high restriction program except only through a level I due process hearing to revoke parole status.

(f) Parole Status.

(1) Parole status shall be earned by the youth when he is deemed to have completed residential programs completion criteria, subsection (e)(2)(A). When a youth has earned parole status and transition to minimum or home restriction level placement is pending, he attains parole status in the current program prior to the transition, unless he is in a high restriction program, in which case, he attains parole status on leaving the facility.

(2) Parole status shall be granted to the youth, if not previously earned, at completion of six consecutive months in medium restriction program(s) even if criteria to earn parole has not been met.

(3) Sentenced Offenders shall not attain parole at any time prior to completion of serving their minimum period of con-

finement unless approved by the committing court. See subsection (h) of this section.

(g) Movement Without Program Completion.

(1) Administrative Transfer Movements. Administrative transfer movements may be made among programs of equal restrictions without a due process hearing. An administrative movement shall not be made in lieu of a movement for which a due process hearing is mandatory.

(2) Exceptions in Hardship Cases. Youth may be placed on parole status at home without meeting completion criteria in hardship cases on the recommendation by community corrections staff and approval by the deputy executive director.

(3) Exceptions to Control Population. The deputy executive director may approve one or more of the following options when necessary to control population and/or manage available funds concerning youth in residential placement.

(A) Youth sentenced to commitment in TYC for offenses committed on or after January 1, 1996, except those sentenced for capital murder, may be considered for movement from high to medium restriction if the following criteria are met:

(i) completion of a portion of the minimum period of confinement applicable to the youth's classifying offense in high restriction:

(I) first degree felony, complete 30 months;

(II) second degree felony, complete 18 months;

(III) third degree felony, complete all of the minimum period confinement applicable to the classifying offense, e.g. 12 months; and

(ii) completion of ICP objectives; and

(iii) completion of resocialization goals and phases; and

(iv) successful completion of a specialized treatment program; and

(v) low risk to reoffend according to a recent psychological evaluation; and

(vi) recommended by the superintendent or regional director; and

(vii) cases individually approved by the deputy executive director.

(B) Youth other than sentenced offenders and Type A offenders may be:

(i) moved into similar residential placements of equal restriction without meeting completion criteria when early movement to a less restrictive placement is not indicated, but movement is necessary to manage available funds; or

(ii) moved to a less restrictive placement without meeting completion criteria when population is at or above established capacity. Youth who have completed the minimum length of stay and are low risk as determined by a psychological are released first. In general, youth who are closest to completing criteria may be moved next; however, type B violent, chronic serious, controlled substance dealer, firearms and general offenders with a minimum length of stay must meet the following criteria:

(I) completion of a portion of the minimum length of stay:

(-a-) if 12 months, complete nine months;

(-b-) if nine months, complete seven months;

(II) substantial completion of ICP objectives;

(III) substantial completion of phase three resocialization;

(IV) no major violations of rules of conduct within 30 days prior to consideration for waiver and prior to the actual release; and

(V) approved by superintendent or regional director.

(h) Sentenced Offenders. Due to the nature of determinate sentences, some rules governing the classification, placement, release, transition, parole status, and disciplinary movement of sentenced offenders must be applied differently, specifically:

(1) Classification. A youth classified at commitment as a sentenced offender shall retain that classification as long as the youth remains under the jurisdiction of TYC as a result of that commitment. See GOP.47.03, §85.23 of this title (relating to Classification).

(2) Initial Placement. All sentenced offenders shall be assigned to high restriction perimeter-secure facilities unless the deputy executive director waives such placement for a particular youth.

(3) Youth who are sentenced to commitment in the Texas Youth Commission (TYC) for offenses committed on or after January 1, 1996 shall be subject to requirements in this subsection.

(A) Requirements:

(i) The minimum period of confinement is ten years for youth sentenced for capital murder; three years for youth sentenced for an aggravated controlled substance felony or a felony of the first degree; two years for a felony of the second degree; and one year for a felony of the third degree or completion of the sentence, whichever occurs first;

(ii) TYC jurisdiction shall be terminated and a sentenced offender discharged when his/her sentence is complete. All movement and transfer options occur prior to completion of sentence;

(iii) Sentenced offenders shall serve the entire minimum period of confinement applicable to the youth's classifying offense in a high restriction facility.

(B) Movement Between TYC Programs.

(i) Following a sentenced offender's completion in high restriction, of the minimum period of confinement applicable to the youth's classifying offense, the youth shall be governed by the criteria and procedures for the classification the youth would have received if not a sentenced offender.

(ii) Prior to a sentenced offender's completion of the minimum period of confinement applicable to the youth's classifying offense, a youth may be released home on parole only with the approval of the juvenile court. Prior to that completion, TYC may request a hearing by the juvenile court to obtain approval for release home on TYC parole for a youth:

(I) who has participated and successfully completed a specialized treatment program as evidenced by completion of all ICP objectives and all resocialization goals; and

(-a-) has not reached age 19; and

(-b-) the superintendent or regional director recommends the release; and

(-c-) the deputy executive director approves recommendation.

(II) who is sentenced for capital murder; and

(-a-) has completed at least three years in a high restriction facility; and

(-b-) has completed all ICP objectives and all resocialization goals; and

(-c-) the superintendent or regional director recommends the release; and

(-d-) the deputy executive director approves recommendation.

(C) Transfer From TYC High Restriction To TDCJ, Institution. Transfer from a high restriction facility to the Texas Department of Criminal Justice, Institutional Division (TDCJ, ID) may occur as follows.

(i) A transfer shall be automatic for a youth at age 21 who:

(I) was sentenced for capital murder; and

(II) has not completed the minimum period of confinement applicable to the youth's classifying offense (10 years) or the sentence if less than 10 years.

(ii) Other transfers prior to completion of the minimum period of confinement may occur only with the approval of the juvenile court. TYC may request a juvenile court hearing if the following occurs:

(I) youth is at least age 16; and

(II) has met behavior criteria:

(-a-) youth has committed a felony or Class A misdemeanor; or

(-b-) youth has spent at least six months in a high restriction facility and has engaged in disruptive behavior and alternative interventions have been tried without success (for example: special treatment plans, disciplinary transfer, extended stay); and

(III) the superintendent or regional director recommends transfer; and

(IV) the deputy executive director approves recommendation; and

(D) Transfer From TYC High Restriction To TDCJ, Pardons and Parole. Transfer from a high restriction facility to the Texas Department of Criminal Justice, Pardons and Paroles (TDCJ, PP) shall be automatic:

(i) at any time after age 19 that a youth has completed the minimum period of confinement applicable to the youth's classifying offense and TYC releases the youth;

(ii) at age 21 if youth was sentenced for any offense other than capital murder and has not completed the sentence.

(E) Transfer From TYC Home Parole To TDCJ, Pardons and Parole. Transfer from TYC under supervision (parole at home) to the Texas Department of Criminal Justice, Pardons and Paroles (TDCJ, PP) shall be automatic at age 21 if the youth has not completed his sentence.

(F) Transfer From TYC Home Parole To TDCJ Institution. Transfer from TYC under supervision (parole at home) to the Texas Department of Criminal Justice, Institutional Division (TDCJ, ID) may occur only with the approval of the juvenile court. TYC may request a juvenile court hearing if the following occurs:

(i) youth is at least age 16; and

(ii) youth's conduct indicates that the welfare of the community requires transfer following a due process hearing where parole is revoked for:

(I) felony, Class A misdemeanor, or reclassifiable violation; or

(II) any other violation which resulted in placement in an intermediate sanction program at which the youth has failed to progress.

(iii) the superintendent or regional director recommends the transfer; and

(iv) deputy executive director approves recommendation; and

(4) Youth who are sentenced to commitment in TYC for offenses committed before January 1, 1996:

(A) Movement and Parole. Sentenced offenders who meet program completion criteria for transition or parole shall not be released without proper authorization:

(i) Prior to a sentenced offender's 18th birthday, a youth may be transitioned to an appropriate placement if approved by the deputy executive director. The placement may be to any location other than home or home substitute.

(ii) When a juvenile court orders that a sentenced offender be released under supervision, the youth shall be transitioned or paroled, as appropriate to the youth's progress at the time of the court's order.

(iii) When the juvenile court orders that a sentenced offender be recommitted to TYC without a determinate sentence, the youth's eligibility for release on parole or transition shall be governed by the release criteria and procedures for the classification the youth would have received if not a sentenced offender.

(B) Disciplinary Movement. A sentenced offender may be assigned to any appropriate placement, including a high restriction facility, following a disciplinary hearing. The appropriate placement will be selected according to the totality of the circumstances, including the youth's age, sentencing offense, length of time and progress in TYC custody, and the nature of the misconduct for which the youth is being disciplined.

(C) Release Exceptions. Sentenced offenders may be considered for release under a hardship or for population control only if:

(i) the youth is less than 18 years of age and the release is approved by the committing court; or

(ii) the youth is 18 years of age or older and meets the exception criteria for the classification the youth would have received if not a sentenced offender.

(i) Notification. Parents or guardians will be notified of all movements.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 29, 1996.

TRD-9605874 Steve Robinson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption: June 10, 1996

For further information, please call: (512) 483-5244

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 48. Community Care for Aged and Disabled

##### 1915(c) Medicaid Home and Community-based Waiver Services for Aged and Disabled Adults Who Meet Criteria for Alternatives to Nursing Facility Care

###### • 40 TAC §48.6003

The Texas Department of Human Services (DHS) proposes an amendment to §48.6003, concerning client eligibility criteria, in its Community Care for Aged and Disabled chapter. The purpose of the amendment is to specify the settings in which a client may reside and receive Community Based Alternatives services.

Burton F. Raiford, commissioner, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure the quality of services available to eligible clients. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Sharon Drane at (512) 438-5190 in DHS's Community Care Section. Written comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-233, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs and under Texas Government Code §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001-22.030 and §32.001-32.042.

###### §48.6003. Client Eligibility Criteria.

(a) To be determined eligible by the Texas Department of Human Services (DHS) for the 1915(c) Medicaid waiver program provided as an alternative to care in a nursing facility, an applicant must:

(1)-(6) (No change.)

(7) have ongoing needs for waiver services whose projected costs, as indicated on the Individual Plan of Care, do not exceed the maximum service ceilings set for those services as listed in this paragraph:

(A)-(B) (No change.)

(C) respite care cannot exceed 30 days per individual per Individual Plan of Care year without approval by the waiver manager; [and]

(8) receive waiver services within 30 days after waiver eligibility is established and ;[.]

**(9) reside either in his own home or in a licensed personal care facility or adult foster care home contracted with the Texas Department of Human Services to provide Community Based Alternatives (CBA) services. CBA services will not be delivered to residents of hospitals, nursing facilities, ICF-MR facilities, or unlicensed personal care facilities.**

(b)-(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on May 1, 1996.

TRD-9605993 Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services

Proposed date of adoption: July 1, 1996

For further information, please call: (512) 438-3765

## Minimum Standards for Adult Foster Care

###### • 40 TAC §48.8906

The Texas Department of Human Services (DHS) proposes an amendment to §48.8906, concerning enrollment and licensure requirements, in its Community Care for Aged and Disabled chapter. The purpose of the amendment is to comply with Chapter 247, Texas Health and Safety Code, which requires that four-bed adult foster care homes must be licensed as personal care facilities.

Burton F. Raiford, commissioner, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure that the residents of four-bed adult foster care homes are protected through the personal care licensure rules and oversight by DHS. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Susan Syler at (512) 438-3111 in DHS's Long Term Care Section. Written comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-247, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title

2, Chapter 22, which authorizes the department to administer public assistance programs.

The amendment implements the Human Resources Code, §§22.001-22.030.

*§48.8906. Enrollment and Licensure Requirements.*

(a) (No change.)

**(b) Four-bed adult foster care homes must be licensed by the State of Texas licensing authority as a Type C personal care home.**

(c)[(b)] Adult foster care homes serving five, six, seven, or eight residents must also:

(1) be licensed by the State of Texas licensing authority as a Type A-Class I personal care home. These homes are licensed for eight or fewer adult residents exclusive of "live-in" houseparents, family or staff. These homes must meet all DHS enrollment requirements. Home census may not exceed the capacity for which the home is enrolled/licensed. If there is conflict between the DHS standards and the licensing requirements, the strictest standards and/or rules shall apply;

(2) ensure the presence of an additional member of the staff who has been approved by the adult foster care caseworker at least two hours a day for homes serving five residents, and four hours a day for homes serving six residents, including private pay residents;

(3) ensure the presence of an additional member of the staff who has been approved by the caseworker at least six hours a day for homes serving seven residents, and eight hours a day for homes serving eight residents, including private pay residents;

(4) ensure that additional qualified staff are on-site for the specified number of hours, during the hours from 6 a.m. until 8 p.m. The provider must have records to document that qualified staff were serving residents for the required number of hours each day;

(5) provide a copy of the personal care license to adult foster care staff before enrollment for over four residents and upon renewal thereafter; and

(6) report to adult foster care staff any problems identified by the state licensing authority.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority. Issued in Austin, Texas, on May 1, 1996.

TRD-9605994      Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services

Proposed date of adoption: July 1, 1996

For further information, please call: (512) 438-3765



## Chapter 92. Personal Care Facilities

The Texas Department of Human Services (DHS) proposes amendments to §92. 2, concerning scope; §92.4, concerning types of personal care facilities; and §92.18, concerning license fees, in its Personal Care Facilities chapter. The purpose of the amendments is to comply with Chapter 247, Texas Health and Safety Code, which requires that four-bed adult foster care homes must be licensed as personal care facilities.

Burton F. Raiford, commissioner, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to ensure that the residents of four-bed adult foster care homes are protected through the personal care licensure rules and oversight by DHS. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Susan Syler at (512) 438-3111 in DHS's Long Term Care Section. Written comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-247, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the Texas Register.

### Subchapter A. Introduction

#### • 40 TAC §92.2, §92.4

The amendments are proposed under the Health and Safety Code, Chapter 247, which authorizes the department to license personal care facilities.

The amendments implement the Health and Safety Code, §§247.001-247.066.

#### §92.2. Scope.

(a) A personal care facility does not include an establishment which furnishes food, shelter, and care to fewer than four persons unrelated to the owner [or a foster care type residential facility that serves fewer than five persons and operates under rules adopted by the Texas Department of Human Services].

(b)-(c) (No change.)

§92.4. *Types of Personal Care Facilities.* Types of personal care facilities are as follows.

(1)-(2) (No change.)

**(3) Type C. A four-bed facility which meets the minimum standards and program rules for enrollment with the Texas Department of Human Services as an adult foster care facility and is so enrolled on the effective date of this rule will be deemed licensed as a Type C facility without having to apply for a personal care facility license.**

**(A) After the effective date of this rule and at least 45 days prior to the renewal of its enrollment as an adult foster care facility, the facility must submit an application and fee for a personal care license.**

**(B) Failure to submit the application and fee prior to the date of re-enrollment as an adult foster care facility will result in loss of deemed licensure.**

**(C) After the effective date of this rule, a facility seeking licensure as a Type C facility must meet the requirements of this chapter with the exception of those found in §92.41 of this title (relating to Standards for Personal Care Facilities) and §§92.61-92.63 of this title (relating to Introduction and Application; General Requirements; and Plans, Approvals, and Construction Procedures), in lieu of which the facility must meet the minimum standards found in §§48.8901-48.8907 of this title (relating to Minimum Standards; Provider Qualifications; Substitute Provider Qualifications; Individuals Who May Not Provide Adult Foster Care Services; Home Enrollment Requirements; Enrollment and Licensure Requirements; and Provider Responsibilities).**

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on May 1, 1996.

TRD-9605997      Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services

Proposed date of adoption: July 1, 1996

For further information, please call: (512) 438-3765



## Subchapter B. Application Procedures

### • 40 TAC §92.18

The amendment is proposed under the Health and Safety Code, Chapter 247, which authorizes the department to license personal care facilities.

The amendment implements the Health and Safety Code, §§247.001-247.066.

#### *§92.18. License Fees.*

##### (a) Basic fees.

###### (1) **Type A and Type B.** [Initial and renewal license.]

The license fee is \$100 plus \$3.00 for each bed for which a license is sought, with a maximum of \$400. The fee must be paid with each initial application and annually with each application for renewal of the license.

**(2) Type C. The license fee is \$50. The fee must be paid with each initial application and annually with each application for renewal of the license.**

**(3)[(2)]** Increase in beds. An approved increase in beds is subject to an additional fee of \$3.00 for each bed.

##### (b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on May 1, 1996.

TRD-9605998      Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services

Proposed date of adoption: July 1, 1996

For further information, please call: (512) 438-3765



# ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the **Texas Register**. The section becomes effective 20 days after the agency files the correct document with the **Texas Register**, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Housing and Community Affairs

#### Chapter 53. HOME Investment Partnerships Program

##### • 10 TAC §§53.50-53.62

The Texas Department of Housing and Community Affairs (Department) HOME Investment Partnerships (HOME) Program adopts Proposed Rules §§53.50-53.62, concerning the requirements for application and distribution of funds available under federal and state laws and regulations for the HOME Program. Section 53.57 and §53.60 are adopted with changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 645). Sections 53.50-53.56, 53.58-53.59, and 53.61-53.62 are adopted without changes and will not be republished.

The change to §53.57 was for clarification. The changes to §53.60(b) and (c) added a requirement of a notification period that was not in the original, for the benefit of applicants.

The adoption of the rules will provide definitions of terms commonly used in the program, eligible applicants and activities, funding distributions and allocations, and scoring process and criteria. The sections will define the process the program will use to distribute HOME funds.

The Department did not receive any public comment in opposition to the adoption of the HOME Program Rules during the 30-day comment period. However, the Department did receive one comment on a specific section of the Rules. The respondent requested that the Department increase the amount of funds available per person for the Homebuyer Assistance Program. The Department established the fund maximum in an effort to spread out limited resources. The Department believes that the Homebuyer Assistance Program is viable with the established per person maximum.

The new sections are adopted under Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, (42 United States Code §§12701-12839) and 24 Code of Federal Regulations, Part 92.

The new sections are adopted pursuant to the authority at Texas Government Code, Chapter 2306; Acts of the 73rd Legislative Regular Session, SB 45, chapter 141, page 292, effective May 16, 1993; and Act of the 73rd Legislative Regular Session, Senate Bill 1356, Chapter 725, page 2838, effective September 1, 1993, which provides the Texas Department of Housing and Community Affairs with the authority to adopt rules governing the administration of the Department and its programs.

§ 53.57. *Allocation Plan.* The funding allocation plan will be based on the funding recommendations in the Consolidated Plan, ratified by the Board prior to submission to HUD. Upon notification of HOME Program funding authorization by HUD and the HUD final approval of the consolidated plan, the allocation plan for the HOME Program will be published in the *Texas Register*.

##### §53.60. *Process for Awards Made by Competition.*

(a) The Department will publish a NOFA in the Texas Register. The NOFA will establish a deadline for receiving applications and indicate the approximate amount of available funds.

(b) Selection Procedures for Owner Occupied Housing Assistance, Homebuyer Assistance, and Tenant-Based Rental Assistance.

(1) The proposed program design in the application must comply with all applicable HOME requirements or regulations established in 24 CFR Part 92, as may be amended, and in these rules. Applicants with program designs that do not comply with such requirements are disqualified. Disqualified applicants are notified in writing.

(2) Applications are ranked from highest scores to lowest in their respective regions or activity according to the average of three HOME Program scores. CHDO Set-Aside scores are ranked from highest to lowest in each CHDO-eligible activity on a statewide basis.

(3) Applications that meet or exceed a minimum score of 60% of the total HOME Program score established for the respective activities are considered for funding.

(4) Applicants will be notified in writing at least seven days prior to the date of the Board meeting, including its commitments, of the status of their application.

(5) Applications receiving a favorable staff recommendation are then presented to the Board for approval, pending the availability of HOME funds for such activity.

(6) In event of a tie between two or more applicants, the Department, with Board approval, reserves the right to determine which application will receive funding based on housing need factors and feasibility of the proposed project identified in the application.

(c) Selection Procedures for Rental Project Assistance and Interim Construction Financing Assistance:

(1) Applications are reviewed by the Department to ensure that the proposed rental housing project or the proposed interim construction program meets applicable HOME requirements. Applications with program designs that do not comply with HOME requirements are disqualified. Disqualified applicants are notified in writing.

(2) Applications that meet or exceed a minimum score of 60% of the total HOME Program scoring points established for each Rental Assistance and Interim Construction Assistance program are considered for further processing. Applicants not meeting or exceeding the minimum score established in this section are disqualified and are notified in writing.

(3) Applications meeting or exceeding the minimum HOME Program requirements established in § 53.60(c)(2) of this



title (relating to Process for Awards made by Competition) must receive an underwriting analysis by the Department. A site visit may be conducted as part of the HOME Program feasibility and underwriting analysis. Applicants must receive recommendation for approval from the Department to be considered for HOME funding by the Board.

(4) Applicants will be notified in writing at least 7 days prior to the date of the Board meeting of the status of their applications.

(5) Applications receiving a favorable staff recommendation are then presented to the Board for approval, pending the availability of HOME funds for such activity.

(6) In event of a tie between two or more applicants, the Department, with Board approval, reserves the right to determine which application will receive funding based on housing need factors identified in the application.

(7) Board approval for the award of HOME Rental Project Assistance funds is conditional upon a completed loan closing.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on May 1, 1996.

TRD-9605996      Larry Paul Manley  
Executive Director  
Texas Department of Housing and Community Affairs

Effective date: May 22, 1996

Proposal publication date: January 26, 1996

For further information, please call: (512) 475-2135

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## Title 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 9. Liquefied Petroleum Gas Division

##### Subchapter A. General Applicability and Requirements

#### • 16 TAC §9.5, §9.6

The Railroad Commission of Texas adopts amendments to §9.5, relating to licensing requirements, and §9.6, relating to examination and course of instruction, with changes to the proposed text as published in the March 29, 1996, *Texas Register* (21 TexReg 2519). The commission adopts this action to increase the annual renewal fee from \$10 to \$25, to temporarily suspend the requalification seminars, and to clarify some licensing and course requirements for different types of licenses. The fee increase is necessary to fund the development of commission-approved hands-on training courses by the commission for both LP-gas licensees and applicants for license, which will be proposed in future rulemakings and which may also be proposed as mandatory training.

Section 9.5 specifies the requirements and procedures for licensing, including staggered renewals. Adopted new language in subsection (i) specifies requirements for courses of instruction, which are being moved from §9.6 because they are licensing requirements, not examination requirements. Adopted new language in §9.5(i)(1)(A) and (B), and (i)(4) that is not currently in §9.6 is added for clarification.

Section 9.6 describes requirements and procedures for examinations and courses. It also describes the general installers and repairmen exemption, discusses requirements for trainees, and specifies examination fees and renewal of certification procedures. The adopted substantive amendments, particularly in §9.6(e)(1), increase the annual renewal fee, which has not increased in over ten years, from \$10 to \$25 for LP-gas licensees and applicants. (Individuals holding general installers and repairmen exemptions explained in §9.6(b) will not have an increased fee.) As adopted, the \$25 annual renewal fee will be due

by June 30th for 1996 only, to allow time for the adopted amendments to become effective. Thereafter, the \$25 annual renewal fee will be due by May 31st. This increase is necessary to fund an improved training program for licensees and applicants for license, which will include hands-on training and may be proposed in future rulemakings to be mandatory training. To offset the increased fee, the new training courses will be offered free of charge. During the time period of development and implementation of the new courses, the requalification seminar is temporarily suspended, as specified in subsection (f).

The adopted amendment which is different from the published version is found in §9.6(a)(8). The adopted change is nonsubstantive, allows an examinee who fails an examination to retake the same examination one more time during that business day, and explains the procedure for subsequent examinations.

Other adopted changes in §9.6 include subsection (b)(3), which clarify the requirements for general installers and repairmen exemption holders. The table in §9.6 has been modified; language formerly in the table concerning examination fees is added in subsection (d)(1) and (2). Also, as discussed in the explanation of amendments to §9.5, subsection (f) of §9.6 is being deleted from §9.6 and its contents moved to §9.5 as new subsection (i). Other adopted nonsubstantive amendments include some changes in wording, punctuation, or organization to provide clearer language.

Only one comment was received; the commenter was in favor of the amendments and also suggested having the courses for two consecutive days, so that employers would not be burdened by having all their employees away from work during a day. The commission agrees with this comment and will make every attempt to offer the same class on consecutive days, especially when the courses are being scheduled outside the Austin area, where adequate enrollment can be ensured. The specifics regarding the training will be proposed in a future rulemaking. No groups or associations submitted comments.

The amendments are adopted under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

The following are the statutes, articles, or codes affected by the adopted amendments: Section 9.5 and §9.6—Texas Natural Resources Code, §113.051.

#### §9.5. Licensing Requirements.

(a)-(h) (No change.)

(i) Course of instruction requirements are as follows:

(1) Dates and locations of courses of instruction and seminars shall be listed in a schedule prepared by the commission which shall be published on a monthly basis, shall be posted in the Austin offices of the Gas Services and AFRED divisions, and shall be made available upon request and through electronic media.

(A) The one-hour course of instruction for Category D, F, G, I, J, K, and L company representatives and operations supervisors shall be held in Austin and other selected sites around the state.

(B) The 64-hour course of instruction for Category E shall be held in Austin or any other commission-approved facility at times to be determined by the commission, and shall include at least 64 hours of instruction.

(2) Company representative and operations supervisor applicants for new Category D, E, F, G, I, J, K, and L licenses shall attend and complete an approved course of instruction and shall within one year take the LP-gas management examination. Such applicants shall be exempt from the course of instruction if they have been in a qualified status for at least three years with an active licensee immediately prior to taking the management examination.

(3) Attendance at a course of instruction is not required for Category A, B, C, H, M, N, and O company representatives and operations supervisors.

(4) The assistant director for the LP-Gas Section of the Gas Services Division may, for good cause shown, allow an individual to become conditionally qualified as a Category D, E, F, G, I, J, K, and L company representative or operations supervisor by taking the management examination if that individual attends and completes the appropriate course of instruction no more than 100 days after taking and passing the management examination. If such individual fails to complete the course of instruction within the time granted by the assistant director, the conditional qualification shall be voided.

*§9.6. Examination Requirements and Renewal of Certified Status.*

(a) Examination general provisions.

(1) No individual may work or be employed in any capacity which requires contact with LP-gas or LP-gas systems until that individual has submitted to and passed a commission examination which measures the competency of that individual to perform the LP-gas related activities anticipated, and tests working knowledge of the Texas Natural Resources Code and the LP-gas safety rules related to the type of LP-gas work anticipated. Table 1 of this section sets forth specific requirements for employee level examinations for each category of license. This section applies to all licensees and their employees who perform LP-gas related activities, and also applies to any ultimate consumer who has purchased, leased, or obtained other rights in any vessel defined as an LP-gas transport by this chapter including any employee of such ultimate consumer if that employee drives or in any way operates such an LP-gas transport. Driving a motor vehicle powered by LP-gas or fueling of motor vehicles for an ultimate consumer by the ultimate consumer or its employees do not in themselves constitute LP-gas related work. Only paragraph (2) of this subsection applies to an employee of a state agency or institution, county, municipality, school district, or other governmental subdivision.

Figure: 16 TAC 9.6(a)(1)

(2) Any employee of an ultimate consumer or a state agency or institution, county, municipality, school district, or other governmental subdivision not required to submit to examination under this section shall be properly supervised and trained in the installation, maintenance, and storage of LP-gas, LP-gas systems, and vehicles fueled by LP-gas, and in the operation of equipment during the filling of and dispensing from storage containers. Such training shall also include the protection of containers and equipment against mechanical injury or tampering by unauthorized individuals.

(3) Ultimate consumers who have purchased, leased, or obtained other rights in any vessel defined as an LP-gas transport, including any employee of an ultimate consumer that drives or in any way operates an LP-gas transport, shall pass one or more of the employee examinations listed in lines 1 and 2 of Table 1 of this section.

(4) Each individual wishing to submit to examination by the commission shall file an LPG Form 16 with the commission prior to examination.

(5) A licensee shall notify the commission when a previously certified individual is hired by immediately filing an LPG Form 16A with the commission. Notification shall include the employee's name as recorded on a current driver's license or Texas Department of Public Safety identification card, employee social security number, name of previous licensee-employer, and LP-gas related work to be performed.

(6) All examinations shall be administered in Austin and at other selected sites, when appropriate, unless an applicant demon-

strates good cause for administering the examination elsewhere. Good cause includes but is not limited to severe economic hardship.

(7) Successful completion of any required examination shall be credited to and accrue to the individual.

(8) Failure of any examination shall immediately disqualify the individual from performing any LP-gas related activities covered by the examination which is failed. Any individual who fails an examination administered by the commission may re-take the same examination one additional time during a business day. Any subsequent examination must be taken on another business day, unless approved by the assistant director for the LP-Gas Section, Gas Services Division, or another designated commission employee.

(9) Dates and locations of examinations shall be listed in a schedule prepared annually by the commission by September 1st each year. The schedule shall be posted in the Austin offices of the Gas Services and AFRED divisions and made available upon request and through electronic media.

(b) General Installers and Repairmen Exemption.

(1) Any individual who is currently licensed as a master or journeyman plumber by the Texas State Board of Plumbing Examiners or who is currently licensed with a Class A or B Air Conditioning and Refrigeration Contractors License issued by the Department of Licensing and Regulation may apply for and be granted an exemption to the Category D management examination and any service and installation employee level examination for Categories D, E, K, or N, excluding an engine fuel examination, and applicable seminar or course of instruction requirements by submitting to the commission the following information:

(A)-(C) (No change.)

(2) (No change.)

(3) An individual who holds a general installers and repairmen exemption shall not perform LP-gas related activities unless:

(A) that individual works for a properly licensed Category D, E, K, or N licensee;

(B) the individual successfully completes the applicable employee-level examinations required to work for a licensee in a category other than D, E, K, or N; or

(C) the individual successfully completes all examination and licensing requirements for another category of license.

(4) (No change.)

(5) Any individual granted such exemption shall maintain certified status at all times. Upon failure to maintain certified status, all affected LP-gas operations shall cease immediately until proper status has been regained.

(6) In order to maintain certified status, each individual issued an examination exemption card shall pay a \$10 annual renewal fee to the commission on or before May 31st each year. Failure to pay the \$10 annual renewal fee by the May 31st deadline shall result in a lapsed certification. If an individual's certification lapses, that individual shall cease all LP-gas activities until certified status has been renewed. To renew a lapsed certification, the applicant shall pay the \$10 annual renewal fee plus a \$10 late-filing fee and submit proof of successful completion of all examinations required for the certification to the commission. Failure to do so shall result in the expiration of the certification. If an individual's certification has been expired for more than two years, that individual shall comply with the requirements of subsection (b) of this section.

(7) Each applicant for license who plans to substitute an individual as noted in §9.5(g)(2) of this title (relating to licensing requirements) for its company representative or operations supervisor may do so provided that individual complies with all of the other requirements.

(8) Any individual who is issued this exemption agrees to comply with the current edition of the LP-gas safety rules. In the event the exempt individual surrenders, fails to renew, or has the license revoked either by the Texas State Board of Plumbing Examiners or Department of Licensing and Regulation, that individual shall immediately cease performing any LP-gas activity granted by this section. The examination exemption card shall be returned immediately to the commission and all rights and privileges surrendered.

(9) Applicants for license or licensees who qualify for the general installers and repairmen exemption are not required to take the one-hour course of instruction specified in §9.5(i)(A) of this title (relating to licensing requirements).

(c) Trainees.

(1) Notwithstanding the examination requirements set forth in this section, a licensee or ultimate consumer may employ an individual as a trainee for a period not to exceed 45 days, without that individual having successfully completed the necessary examination, subject to the following conditions.

(A) The trainee shall be directly and individually supervised at all times by an individual who has successfully completed the commission examination for the areas of work being performed by the trainee.

(B) The licensee or ultimate consumer shall ensure that an LPG Form 16 is on file with the commission for each employee in training at the time that the trainee begins supervised LP-gas activities.

(C) No trainee may perform any LP-gas work for which he or she is not currently certified while unsupervised.

(2) A trainee who fails a commission examination shall cease to perform any LP-gas related activities covered by the examination failed. A trainee who has been in training for a total period of 45 days, in any combination and with any number of employers, shall cease to perform any LP-gas activities for which he or she is not currently certified.

(3) A trainee who continues to work in violation of this subsection may be held responsible for the violation. An employer who employs an individual in violation of this subsection may be held responsible for the violation. Possible penalties for violation are set forth in the Texas Natural Resources Code, Chapter 113. The commission may call an administrative hearing to show cause why a license should not be subject to revocation, suspension or probation, or any combination of these penalties.

(d) Examination fees. Each applicant shall pay to the commission the examination fee specified in this section in advance for each required examination. The fee is nonrefundable and shall be paid in full before each examination. An applicant who fails an examination shall pay the full examination fee for each subsequent examination.

(1) The fee for a management level examination required for company representatives and operations supervisors for all license categories is \$25.

(2) The fee for all employee level examinations for all license categories is \$10.

(e) Renewal of certified status.

(1) In order to maintain certified status, each individual who has been qualified by examination shall pay the \$25 annual renewal fee to the commission on or before the specified deadline. For 1996 only, the \$25 annual renewal fee shall be paid by June 30th. For each year thereafter, the \$25 annual renewal fee shall be due by May 31st.

(2) Failure to pay the \$25 annual renewal fee by the deadline specified in subsection (e)(1) shall result in a lapsed certification. To renew a lapsed certification, the applicant shall pay the \$25 annual renewal fee plus a \$10 late-filing fee and submit proof of successful completion of all examinations required for the certification to the commission. Failure to do so shall result in the expiration of the certification. If an individual's certification has been expired for more than two years, that individual shall comply with the requirements of subsection (a) of this section.

(3) Upon receipt of the annual renewal fee, late-filing penalty, and proof of successful completion of all examinations required, the commission shall verify that the individual's certification has not been suspended, revoked, or expired for more than two years. After verification, the commission shall renew the certification and the individual may resume LP-gas activities.

(4) If an individual's certification lapses or expires, the individual shall immediately cease performance of all LP-gas activities which require certification.

(f) Requalification seminars are temporarily suspended until February 28, 1998, or until further amendment of this subsection.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 30, 1996.

TRD-9605969

Mary Ross McDonald  
Assistant Director, Legal Division, Gas Utilities/LP Gas  
Railroad Commission of Texas

Effective date: May 21, 1996

Proposal publication date: March 29, 1996

For further information, please call: (512) 463-7008

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**TITLE 25. HEALTH SERVICES**  
**Part I. Texas Department of Health**  
**Chapter 241. Shellfish Sanitation**

**Texas Crab Meat**

**• 25 TAC §§241.1, 241.2, 241.4-241.29**

The Texas Department of Health (department) adopts amendments to §§241.1, 241.2 and 241.4-241.29, concerning Texas crab meat. Sections 241.2, 241.4, 241.7, 241.8, 241.10, 241.12-241.17, 241.19, 241.20, 241.22, and 241.23, are adopted with changes to the proposed text as published in the February 9, 1996 issue of the *Texas Register* (21 TexReg 934). Sections 241.1, 241.5, 241.6, 241.9, 241.11, 241.18, 241.21, and 241.24-241.29 are adopted without changes and will not be republished.

The amendments update and clarify the existing rules and implement the statutory changes adopted by the 73rd Legislature. The amendments add new definitions and update existing definitions; establish new standards for the processing and distribution of crab meat; and establish new licensing and enforcement procedures.

The amendments will better assure that crab meat processed in or imported into Texas will be free of disease or other health hazards transmissible by these products. A summary of comments and the department's responses to the comments follows.

COMMENT: Concerning §241.2(a), one commenter stated that invalidating a license simply because there is a 5.0% or more change in shares of company stock owned by any one board member is not reasonable. The number of shares may vary and have nothing to do with how well the plant is operated.

RESPONSE: The department agrees and has deleted the proposed wording.

COMMENT: Concerning §241.2(c), during the review process, the department determined that a clarifying phrase was not necessary.

RESPONSE: The department removed the phrase.

COMMENT: Concerning §241.2(c) and (d), one commenter stated that these subsections were not necessary.

RESPONSE: The department disagrees because our inspectors are not trained in these requirements, and the division which used to conduct such inspections has been transferred to another agency.

COMMENT: Concerning §241.2(e) and §241.23(d), one commenter stated that these paragraphs should address a "CODE DATE" instead of a "SELL BY" date.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.2(f), during the review process, the department determined that additional wording was necessary for clarification.

RESPONSE: The department has made the appropriate changes.

COMMENT: Concerning §241.2(g), one commenter stated that this paragraph was too subjective and wanted it removed from the rules.

RESPONSE: The department disagrees because past failure to comply with the rules should be reason for denial.

COMMENT: Concerning §241.2(o), (p), (q), (r), and (s), one commenter stated that these monetary penalties were not necessary and were totally subjective, and the commenter was opposed to any penalties.

RESPONSE: The department disagrees because monetary penalties provide an intermediate level of enforcement short of revocation and closing a business.

COMMENT: Concerning §§241.4(d), 241.13(i), and 241.14(e), one commenter stated that since a study had been conducted showing that the rinsing of cooked crabs could be optional, these paragraphs needed to be changed to reflect that option.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.4(i), one commenter stated that this section needed clarification regarding the types of activities required to be under one roof.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.7(a), one commenter stated that a minimum of 50 foot candles was too restrictive and would be too costly to comply.

RESPONSE: The department agrees and has changed the requirement to a minimum of 35 foot candles.

COMMENT: Concerning §241.8(b), several commenters stated that requiring a maximum of 85 degrees in the backing room would be very costly for the industry to comply.

RESPONSE: The department agrees and has deleted the proposed wording.

COMMENT: Concerning §241.10(g), several commenters stated that requiring additional water closets is not reasonable and would be too costly for the current industry.

RESPONSE: The department agrees and has deleted the proposed changes.

COMMENT: Concerning §241.12(b), during the review process, the department determined that additional wording was necessary for clarification.

RESPONSE: The department has made the appropriate changes.

COMMENT: Concerning §241.13(f), one commenter stated that requiring racks to be a minimum of four inches off the floor was unreasonable and unduly costly when the floor of his cooler is all ready raised eight inches above the rest of the plant and is graded to drain properly.

RESPONSE: The department agrees and has changed the requirement to a minimum of four inches unless the floor in the cooler is all ready a minimum of four inches above the rest of the plant.

COMMENT: Concerning §241.15(i) and (j), one commenter stated that the requirement to pick into the final container is not reasonable.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.16(h), one commenter requested approval of repacking of crab meat by licensed dealers so that this section would not conflict with other proposed amendments and sections.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.16(j), during the review process, the department determined that additional wording was necessary for clarification.

RESPONSE: The department has made the appropriate changes.

COMMENT: Concerning §241.17(g), several commenters stated that this requirement was unreasonable.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.19(m) and (u), one commenter wanted clarification of the pasteurization requirements to allow pasteurization of one plant's crab meat in another plant.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.19(y), during the review process, the department determined that additional wording was necessary for clarification.

RESPONSE: The department has made the appropriate changes.

COMMENT: Concerning §241.20(d), one commenter stated that the department should clarify this subsection relating to premises.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.22(a), during the review process, the department determined that deleting the word "glass" was necessary because it is not "durable" by definition.

RESPONSE: The department has made the deletion.

COMMENT: Concerning §241.23(c) and (d), during the review process, the department determined that to be consistent with §241.2(e) these subsections must be changed.

RESPONSE: The department has made the appropriate changes.

COMMENT: Concerning §241.23(i), during the review process, the department determined that additional wording was necessary for clarification.

RESPONSE: The department has made the appropriate changes.

COMMENT: Concerning §241.29(c), one commenter stated he believed the Food Protection Management Program course should not be required since it did not deal with crab meat.

RESPONSE: The department disagrees. This is the only course recognized by the department for food handlers. Until a more specific course for crab meat is developed, this course is the only sanitation training available.

Editorial changes were made for clarification or consistency purposes.

All of the commenters were individuals. The commenters were generally in favor of the rules; however, they expressed concerns and questions relating to the changes.

The amendments are adopted under Texas Health and Safety Code, §436.12 and §12.001, which provides the Texas Board of Health (board) with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

*§241.2. Licensing and Enforcement Procedures.*

(a) No crab meat shall be offered for sale for food in the State of Texas unless the crab meat has been processed and packaged in compliance with these sections or obtained from sources outside the state accepted by the Texas Department of Health (department). If obtained from sources outside of the state, the crab meat shall originate from a crab meat processor currently licensed by the appropriate state or other government authority. Crab meat obtained from sources other than those outlined in this section shall be considered unfit for human consumption. No one shall engage in the processing and packing of crab meat for sale without having complied with these sections. No one shall engage in any activity requiring a license under these sections without having applied for and obtained a numbered license from the commissioner.

(b) Prior to beginning construction of a new crab meat plant, or major remodeling of an existing crab meat plant, (which includes, but is not limited to: any process new to that particular plant; any change of product flow; or any enlarging of the plant structure); complete, legible plans showing the floor plan of the building, with dimensions drawn to scale, location of equipment, doors, floor drains, etc., and written, complete operational procedures for all phases of the activity, including flow of the product, shall be submitted to the Seafood Safety Division (SSD) for review and approval. Additional plans of the entire premises shall be required showing all structures, as well as, all water wells and septic systems with related distances and a statement of specifications as to type, sizes, design, date installed, etc. Plans shall be submitted no less than 30 days prior to initiating a new process or beginning construction. No operations shall be conducted while any inside plant construction or any other construction which has the potential to contaminate the product is occurring. A legibly written or typed application on forms provided by the department must be filed with the SSD before any crab meat processing begins each license year.

(c) The application for a license must be accompanied by a letter from the appropriate state agency, authorized agent, or designated representative, which states that the water supply is potable and the sewage disposal system is working properly.

(1) For new construction, where the letter can not be submitted with the application, it must be submitted after the water supply connection is made and the sewage system is installed or the connection to an existing sewage system is made, the water supply and sewage system are inspected, and before the license will be issued.

(2) For licensed locations where the crab meat activities are of a continuing nature, a letter concerning a public water supply and/or public sewage system shall be acceptable for a period not to exceed five years from the date of the letter.

(3) For licensed locations where the crab meat activities are of a continuing nature, a letter concerning a private water supply and/or private sewage system shall be acceptable for a period not to exceed three years from the date of the letter.

(4) A copy of the original letter may be submitted with the new application required each year.

(5) If changes in activities increase the demand for water supply or the loading on the sewage system, if any construction or maintenance is required on the water supply or the sewage system or if any problems are observed or detected with the water supply or the sewage system, a new letter will be required.

(d) The application for a license must be accompanied by acceptable sample results from at least one water sample from the water supply collected during the 30-day period immediately prior to the date on the application.

(e) The application for a license must be accompanied by a written statement of the procedure the applicant will use to determine the code date for crab meat packed and shipped from the location listed in the application, if the applicant proposes to use a code date.

(f) A license and unique number shall be issued by the commissioner only after an inspection of the plant by an authorized agent has revealed that past violative operational procedures have been corrected and the plant and procedures are currently in compliance with these sections.

(g) The inspection of a previously licensed plant which has exhibited operational problems or violations of the operational requirements of these sections or had a license revoked shall not be conducted until written, complete operational procedures for all phases of the activity, including flow of the product, have been submitted to the SSD for review and approval. An application may be rejected and a license denied based on past failure to comply with the requirements of these sections.

(h) Crab meat processing at the plant shall not begin until the commissioner has issued the Crab Meat Processing License for that location. Each license shall expire automatically at 11:59 p.m. the last day of February following the date of issue. Licenses shall not be transferable.

(i) After a license is issued, unannounced inspections shall be conducted at any time the SSD has reason to believe the plant may be in operation or that crab meat may be stored on the premises and at such frequency as may be necessary to assure that adequate operational and sanitary conditions are maintained. All crab meat at a licensed location shall be considered the responsibility of the licensed dealer at that location, for the purposes of this undesignated head. A copy of the completed inspection form listing written descriptions of the violations observed, along with any necessary explanation, shall be provided by an authorized agent of the department to the most responsible individual present at the firm at the conclusion of the inspection. Any violation of the same requirement found on a consecutive inspection may result in license suspension in accordance with subsection (j) of this section.

(j) The SSD may initiate procedures to suspend or revoke a license as follows.

(1) The procedures shall be in accordance with Texas Health and Safety Code, §436.114, and the provisions of the Administrative Procedure Act, the Government Code, Chapter 2001, and the department's formal hearing procedures in Chapter 1 of this title (relating to the Board of Health).

(2) The grounds for suspension or revocation shall be either one of the following:

(A) inspection results indicate unsatisfactory conditions in the plant or the existence of a public health hazard; or

(B) the license holder or representative refuses to allow an inspection or otherwise interferes with an authorized agent of the department in the performance of his or her duties.

(k) A licensee whose license has been suspended may not process any crab meat for a period determined by the commissioner, not to exceed 60 days after the date of signing of the final order of suspension.

(l) A licensee whose license has been suspended shall not process any crab meat until the SSD is satisfied that all necessary

corrections have been made. A suspension will not be rescinded until an inspection establishes that the firm has corrected all violations which resulted in the suspension and is in full compliance with all applicable criteria of these sections.

(m) A license may be revoked for any of the reasons outlined in subsection (j) of this section or for either of the following:

(1) the violations initiating a suspension fail to be corrected within the time frame established; or

(2) the license has been suspended more than twice.

(n) A licensee whose license has been revoked shall not apply for a new license for 180 days or before the next licensing period, whichever is longer, after the date of signing of the final order of revocation. When the department contemplates suspension or revocation, the license holder shall be afforded the opportunity for a hearing. Notice of the contemplated action shall be given to the license holder by personal service or certified mail, return receipt requested. If no request for a hearing is received by the director, within 14 days of personal service or the date of receipt, the department may proceed to take the action set out in the notice.

(o) When the department determines that monetary penalties are appropriate, proposals for assessment of and hearings on administrative penalties shall be made in accordance with Texas Health and Safety Code, §436.114, the Administrative Procedures Act, the Government Code, Chapter 2001, and the department's formal hearing procedures in Chapter 1 of this title (relating to the Board of Health).

(p) The seriousness of violations shall be categorized by one of the following severity levels. The examples following the severity levels are neither exhaustive nor controlling. They reflect only the seriousness of the violation and not the intent of the violator, the history of the violator, the amount necessary to deter future violations, or efforts to correct the violation.

(1) Severity Level V-violations that are of minor public health significance. The following are examples of severity level V violations:

(A) failure to keep premises clean and have adequate drainage;

(B) failure to clean/maintain floors, walls, or ceilings;

(C) failure to provide adequate & properly shielded lighting;

(D) failure to post hand washing signs at hand washing stations; and

(E) failure to restrict pickers from the packing room and all unauthorized persons from processing areas when operating.

(2) Severity Level IV-Violations that are of more than minor significance, or if left uncorrected, could result in more serious violations. The following are examples of severity level IV violations:

(A) failure to provide or use storage for employee clothing or personal articles;

(B) failure to have clean, maintained, adequately drained floor;

(C) failure to provide adequate heating/cooling/ventilation;

(D) failure to provide adequate quantity of water to facility;

(E) failure to provide hand washing stations with soap, sanitary towels, and/or waste receptacles with proper lids;

(F) failure to properly construct, locate, maintain, and/or keep clean all non-food contact surfaces;

(G) failure to provide detergents, approved sanitizers, brushes, and/or test kit to properly clean and sanitize the facility;

(H) failure to properly store and/or keep single service containers clean;

(I) failure to maintain frozen crab meat at 0 degrees Fahrenheit or less;

(J) failure to require employees to wear clean outer garments, impermeable finger cots; to store properly; to wear proper hair restraints;

(K) failure to promptly remove crab scrap or other accumulation; and

(L) failure to meet code and/or install water disposal correctly or have adequate drainage where operations discharge water.

(3) Severity Level III-Violations that are significant and which, if not corrected, could threaten public health. The following are examples of severity level III violations:

(A) failure to exclude insects, rodents, vermin, or any other animals;

(B) failure to provide hot and cold water at each sink/lavatory;

(C) failure to protect plumbing from backflow, backsiphonage, and/or cross contamination;

(D) failure to have toilets clean, repaired, or have self-closing doors;

(E) failure to properly use, store, separate, and/or label poisonous/toxic materials;

(F) failure to properly construct, locate, clean, and/or maintain food contact surfaces;

(G) failure to provide a temperature measuring device in each refrigeration unit;

(H) failure to wash/sanitize employees hands and/or exhibit good hygienic practice;

(I) failure to restrict any personnel with infections from participating in crab meat processing operations; and

(J) failure to maintain complete and accurate records.

(4) Severity Level II-Violations that have a significant adverse impact on public health. The following are examples of severity level II violations:

(A) failure to separate operations by partition, space, or time;

(B) failure to provide adequate refrigeration units;

(C) failure to clean and sanitize food contact surfaces effectively and within required time frame;

(D) failure to label crab meat or properly complete label;

(E) failure to protect crab meat from contamination;

(F) failure to pack into containers with a valid license number for that location; comply with label requirements; to use proper date;

(G) failure to promptly pick, pack, pasteurize, and/or protect the crab meat; and

(H) failure to have responsible, effective, or designated person as supervisor.

(5) Severity Level I-Violations that are most significant and create an imminent hazard to public health. The following are examples of severity level I violations:

(A) failure to cease operations when location/plant is flooded;

(B) failure to protect the water supply from contamination;

(C) failure to install sewage disposal system properly; maintain or meet code; be adequate;

(D) failure to maintain crab meat at the proper temperature;

(E) failure to keep product from becoming contaminated;

(F) failure to cool packed product to 45 degrees Fahrenheit within two hours of delivery to the packing room;

(G) failure to maintain packed product at 40 degrees Fahrenheit or less during storage or to cover in ice; and

(H) failure to provide sanitary ice and/or properly protect it.

(q) The department may impose differing levels of penalties for different severity level violations and different persons.

(1) Administrative penalties shall be imposed for Severity Level I, II and III violations. Administrative penalties shall be considered for Severity Level IV and V violations when they are combined with those of higher severity level(s) or for repeated violations which could have been prevented by corrective action and for which the license holder did not take effective corrective action.

(2) Tables IA and IB show the base administrative penalties.

FIGURE 1: TAC §241.2(q)(2)

FIGURE 2: TAC §241.2(q)(2)

(3) Adjustments to the values in Tables IA and IB in paragraph (2) of this subsection may be made for the presence or absence of the following factors:

(A) prompt identification and reporting;

(B) corrective action to prevent recurrence;

(C) compliance history;

(D) prior notice of similar event; and

(E) multiple occurrences.

(4) The penalty may be in an amount not to exceed \$25,000 a day for each violation for a person who violates the Health and Safety Code, or this chapter, or an order. Each day a violation continues may be considered a separate violation for the purposes of penalty assessment.

(r) The department may offer a license holder the opportunity to attend a settlement conference to discuss with the department, or a division thereof, methods and schedules for correcting the violation(s) or to show compliance with applicable provisions of the Health and Safety Code, this chapter, license conditions, and any orders of the department issued thereunder, or discuss both such topics. The department's Office of General Counsel may conduct settlement negotiations.

(s) Notice of any settlement conference shall be sent by personal service or certified mail, return receipt requested. A settlement conference is not a prerequisite for the action to be taken under subsections (o), (p), or (q) of this section.

(t) By acceptance of a license, the holder agrees to save, hold harmless, and indemnify the State of Texas, the department, and its employees against any and all liability, claims or losses for property damage or personal injury which result in whole or in part from the license holder's activities. The State of Texas shall not be held liable for financial losses incurred by the crab fishermen, plant supervisors, or plant owners due to failure of the crab industry, condemnation of crab meat, loss of crab meat, or other reasons.

#### §241.4. Plant Location, Grounds, and Arrangements.

(a)-(c) (No change.)

(d) The backing room or area shall be adjacent to the cooking and cooling rooms and shall be physically separated from the live crab and cooking areas to prevent live crabs from entering the backing area. Entrance doors shall be provided to both the cooking and backing areas of the plant so that cooking and backing personnel can enter without passing through other processing areas of the plant. Cooking and backing personnel shall confine themselves to their particular area so as to retard cross-contamination of the cooked crab meat.

(e)-(g) (No change.)

(h) The waste product cool room shall be used to hold backing and picking room crab waste prior to disposal. This room shall be cleaned and disinfected each day of use.

(i) All cooking, backing, picking, and packing of crab meat conducted in one plant shall be in processing areas directly connected and shall be under one roof to eliminate contamination potentials.

(j) Crab bait shall not be allowed to create sanitation or nuisance problems in or near the crab meat plant at any time.

(k) Processing and packing facilities shall be located so that they will not be subjected to flooding by ordinary high tides. If plant floors are flooded, all operations shall be discontinued and the SSD shall immediately be notified of the flooding. No operations may occur until waters have receded and the building is thoroughly cleaned and sanitized, and the facilities have been inspected by an authorized agent of the department.

(l)-(p) (No change.)

(q) Because picking and packing operations occur in separate areas, a delivery opening, shelf, or counter shall be provided so that pickers do not enter the packing area. The delivery opening area shall be equipped with a shelf or surface constructed of smooth, corrosion resistant, easily cleanable, durable materials which can be effectively sanitized. The shelf shall drain toward the picking room and, if necessary, be curbed on the packing room side.

(r)-(s) (No change.)

#### *§241.7. Lighting.*

(a) Safe and adequate lighting shall be provided in all areas. A minimum of 35 foot candles, verified by an authorized agent, shall be required at product level in all processing areas.

(b) (No change.)

#### *§241.8. Heating, Cooling, and Ventilation.*

(a) (No change.)

(b) Processors shall have their picking and packing areas cooled with mechanical refrigeration adequate to maintain the internal air temperature at 72 degrees Fahrenheit or less.

(c) Each processing room or area shall be equipped with an indicating thermometer installed to accurately measure, within three degrees, the temperature in the warmest location not to be more than six feet off the floor.

#### *§241.10. Plumbing, Sewage, and Related Facilities.*

(a) (No change.)

(b) Drainage outlets shall be constructed and maintained to prevent the possible entrance of insects and rodents. Floor drainage shall not be allowed to drain from the plant on top of the ground.

(c) There shall be no cross connections between the approved pressure water supply and water from an unapproved source, and there shall be no fixtures or connections through which the approved pressure water supply might be contaminated by backsiphonage. Adequate devices approved by a regulatory agency shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where the air gap between the water supply inlet and the fixture's flood level rim is less than twice the diameter of the water system inlet. All submerged inlets including hoses attached to faucets shall be equipped with a backflow prevention device. If booster pumps are connected directly to the potable

water supply, the pumps shall be equipped with a low pressure cutoff device or equivalent method to prevent backsiphonage.

(d) Hand washing facilities shall be adequate in number and size for the number of employees, convenient to the work areas, and located so that the person responsible for supervision can readily observe that employees wash their hands before beginning work and after each interruption. There shall be at least one hand washing lavatory located in each of these areas: the backing area; the picking room; and the packing room. At least one hand washing lavatory shall be provided in each of these three areas for every 15 employees among the first 100 employees, and at least one hand washing lavatory for each 25 employees in excess of the first 100 employees. (Twenty-four lineal inches of wash sink or 18 inches of a circular basin, when provided with water outlets for such space, will be considered equivalent to one lavatory.) Three compartment sinks shall not be used for hand washing, but may be used to sanitize the hands after washing them in a lavatory. There shall be at least one three compartment sink located in the picking room, and one in the packing room. A three compartment sink shall be provided in the picking room for every 20 pickers. There shall be at least one large basin sink in the backing room. These sinks shall be of adequate size to completely immerse and properly clean and sanitize equipment and utensils.

(e) Hand washing lavatories and three-compartment sinks shall be provided with hot water of at least 110 degrees Fahrenheit from either a controlled temperature source with a maximum temperature of 115 degrees Fahrenheit, or from a hot and cold mixing or combination faucet. Steam water mixing valves or steam water combination faucets shall not be acceptable.

(f) A supply of hand cleaning soap or detergent shall be available at each hand washing lavatory. A container of bactericide for hand rinsing purposes shall be provided near each group of lavatories in the processing areas. A supply of disposable towels or a suitable hand drying device that provides heated air shall be conveniently located near each hand washing lavatory. Common towels shall be prohibited. Where disposable towels are used, easily cleanable waste receptacles, with covers, shall be conveniently located near the hand washing lavatories. Hand washing signs, in languages understood by the employees, shall be posted in toilet rooms and near hand washing lavatories. A hand washing lavatory shall be located immediately outside the toilet rooms so that hand washing can be readily observed. Hand washing lavatories, hand drying devices, and all related equipment shall be kept clean and in good repair.

(g) Water closets, in toilet rooms separate for each sex, shall be provided in all places of employment in accordance with the following table. The number of water closets to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where such single-occupancy rooms have more than one commode, only one such facility in each toilet room shall be counted for the purposes of the table due to the lack of partitions. The sewage disposal method shall not endanger the health of employees. Each water closet shall occupy a separate compartment with a door and walls or partitions between fixtures adequately high to assure privacy. Toilet room doors shall be tight fitting, self-closing, and not open directly into a processing area. Toilet rooms shall be kept clean and in good repair. A supply of toilet paper in a suitable holder shall be available in the toilet rooms. Air vents shall be screened or have self-closing louvers. A covered waste receptacle shall be provided in each toilet room.

FIGURE 1: 25 TAC §241.10(g)

(h) No drainpipes or wastepipes shall be located over food processing or storage areas, or over areas in which containers are stored or washed.



(i) Sewage shall be discharged into an adequate sewerage system or shall be disposed of through other effective means. Where private sewerage systems are utilized, they shall be constructed and maintained according to state and local laws. Privies are not acceptable. The sewerage system shall be constructed and maintained in order that sewage will be inaccessible to flies or other insects, rodents, or other vermin, and the sewage shall not provide a source of contamination. All sewerage lines and floor drainage lines shall be separate and shall be trapped to prevent entrance of sewage into any portion of the plant.

*§241.12. Construction of Utensils and Equipment.*

(a) All plant equipment and utensils shall be suitable for their intended use, so designed and of such durable material and workmanship as to be readily cleanable and shall be kept in good repair. The design, construction, and use of such equipment and utensils shall preclude the contamination of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment shall be installed and maintained to facilitate the cleaning thereof and of all adjacent areas.

(b) All utensils and equipment shall be designed and fabricated from smooth, corrosion resistant, safe, durable materials for conditions of normal use and resistant to denting, buckling, pitting, chipping, and crazing. Unfinished and unpainted wood shall not be approved for use in any processing area as food or non-food contact surfaces.

(c) (No change.)

(d) All utensils and equipment shall be subject to inspection for compliance by an agent of the SSD prior to licensing or initial use and shall be kept in good repair.

(e) (No change.)

(f) Equipment of new design necessitated by new processes shall be reviewed by an authorized agent of the SSD before it is put into operation.

*§241.13. Cooking, Cooling, and Storage Areas.*

(a)-(d) (No change.)

(e) Crates and/or baskets used in cookers shall be of corrosion resistant metal or other durable material approved by the department and shall be durable under the conditions of normal use. They shall be resistant to denting, buckling, pitting, chipping, and crazing. They shall have air gaps close enough to prevent spillage of crabs, and yet with as much space as possible to facilitate cooking and air penetration when cooling.

(f) Crates and/or baskets shall not be allowed to come in contact with the floor or other contaminated surfaces either while clean and empty and waiting to be used or while being used to hold cooked crabs. Raised racks or other devices shall be provided to permit free air circulation and shall elevate the crab bodies and/or claws a minimum of four inches off the floor unless the floor in the cooler is raised a minimum of four inches above the floor in the rest of the plant and is properly graded to drain.

(g)-(h) (No change.)

(i) Cooked crabs shall be backed immediately after cooking unless they are cooled to room temperature and placed under mechanical refrigeration at air temperatures of 45 degrees Fahrenheit or less within one hour of removal from the cooker. Refrigeration of unbacked cooked crabs shall not be allowed as a routine operation. Cooked, backed crabs shall be placed under mechanical refrigeration and shall be maintained at air temperatures of 45 degrees Fahrenheit or less until picked. Coolers for whole cooked or backed crabs shall be capable of maintaining air temperatures of 45 degrees Fahrenheit or less at any time crabs are held in the cooler.

(j) (No change.)

*§241.14. Backing of Cooked Crabs.*

(a)-(c) (No change.)

(d) Backing table tops shall be of corrosion resistant metal without butt joints or open seams. Backing table frames and legs shall be constructed of corrosion resistant, durable material. Spray nozzles used for rinsing the waste out of the backed crab shall be smooth and easily cleanable.

(e) If rinsing of backed crabs is done, it shall be immediately after backing using sprayed water, and rinsed crabs shall be immediately placed in receptacles of approved design. Backed crabs and the containers shall not be exposed to the drainage or splash from the rinse.

(f)-(h) (No change.)

*§241.15. Picking of Crab Meat.*

(a) (No change.)

(b) Picking tables shall be made with frames and legs of corrosion resistant, durable material. Metal construction joints shall be made by welding and shall be ground to a smooth surface. Table top food contact surfaces shall be made without seams or butt joints. Table tops shall be made of type 302 and 304 stainless steel or its equivalent, number 4 finish or better on exposed surfaces, and 18 gauge or heavier. Construction and material may be of better quality than stated in this subsection. Construction shall be designed to avoid accumulation of organic material at the edge and underside of the table and all areas shall be easily cleanable. The tables shall be constructed to be graded to drain.

(c) If wall tables are used, the backs of the tables shall extend at least 24 inches upward and be of durable material at least equal to the table top.

(d)-(g) (No change.)

(h) Only small quantities of cooked crabs shall be removed from the refrigeration room at any one time to be delivered to the pickers to prevent undue warming of the crabs before and during picking. Condensation drip shall not come in contact with the cooked crabs.

(i) The crab meat shall be picked directly into one pound containers [the final container]. Each picker shall have no more than six containers at their work station at any time.

(j) Upon filling not more than six containers of crab meat, each picker shall deliver the meat to the packing area to be weighed.

(k) After each weighing, and before returning to work, the picker shall wash his/her hands and knife with hot water and detergent and then rinse them in a bactericide of approved strength. A bactericide solution of chlorine shall be kept between 50 and 100 parts per million (ppm) concentration, while an iodine solution shall be kept between 25 and 50 ppm concentration.

(l)-(n) (No change.)

*§241.16. Packing of Crab Meat.*

(a) The packing area shall be equipped with a counter of rigid construction, surfaced with corrosion resistant metal or other impervious durable material with no open seams.

(b)-(e) (No change.)

(f) A record of the quantity of meat picked by individuals may be kept in a ledger at the delivery opening, or on a tally board, or by other sanitary methods.

(g) (No change.)

(h) Repacking of crab meat shall be allowed only at licensed crab meat picking plants. Repacked crab meat shall have on the principal display panel a lot or batch code. The records of a licensed crab meat picking plant which repacks crab meat shall include the quantity repacked, the original packer, the original pack date, and the lot or batch code for any repacked crab meat.

(i) The packing operations shall be scheduled and conducted to pack and chill the crab meat to an internal temperature of 45 degrees Fahrenheit or less within two hours of delivery to the packing area and further chilled to an internal temperature of 40 degrees Fahrenheit or less within four hours after picking. This four hour time frame is the maximum time allowed and shall not be exceeded.

(j) Storage air temperatures shall be maintained at 34 degrees Fahrenheit to 40 degrees Fahrenheit.

(k) (No change.)

(l) The packing process and equipment shall not transmit contaminants or objectionable substances to the products. Containers shall conform to applicable food additive regulations and provide adequate protection from contamination. Condensation drip shall not come in contact with the cooked crabs.

(m)-(n) (No change.)

#### *§241.17. Refrigeration of Crab Meat.*

(a)-(b) (No change.)

(c) Refrigeration rooms shall be large enough and constructed so that a full day's production, with ice, can be conveniently stored. Each room shall be equipped with an automatic temperature regulating control (thermostat) and an indicating thermometer installed to accurately measure, within three degrees, the temperature in the warmest location of the storage compartment. Condensation drip shall not come in contact with the cooked crabs.

(d)-(f) (No change.)

(g) Fresh crab meat shall be held and transported in such a manner that internal meat temperatures of 40 degrees Fahrenheit or less are maintained. Containers of fresh crab meat shall not be stored upside down.

(h) (No change.)

(i) Refrigeration and frozen storage compartments shall be equipped in compliance with this section. Mechanical refrigeration facilities shall be adequate in size and cooling capacity to properly refrigerate all crab meat on the premises to comply with the temperature requirements of this section.

(j) (No change.)

#### *§241.19. Pasteurization of Crab Meat.*

(a) (No change.)

(b) Recording and indicating thermometers shall be provided on all pasteurizing equipment, and shall serve as time and temperature controllers. The bulbs of both thermometers shall be located in such a place as to give a true representation of the operating temperature of the water bath. An authorized agent of the department shall check the accuracy of both thermometers as installed and thereafter at least once each operating season. The recording thermometer chart must be at least a 24-hour chart, and shall be at least 12 inches in diameter.

(c)-(f) (No change.)

(g) The pasteurization unit shall not be operated without a recording thermometer chart in place, the pen in contact with the

chart and an inked record being made of the operating time-temperature cycle. Any indication of falsification of a thermometer chart shall constitute a failure to comply with this section. A new chart shall be used for each day's operations and the code number or date of each batch shall be affixed to the chart for each pasteurizing cycle. A permanent file of the used thermometer charts shall be maintained by the pasteurizer and kept available for inspection by the department for a period of one year. The following information shall be recorded within the confines of the pen markings after the pasteurization cycle has been completed:

(1)-(3) (No change.)

(4) if the pasteurizer processes meat for someone else, the packer's name, address and license number;

(5)-(7) (No change.)

(h)-(i) (No change.)

(j) Crab meat for pasteurization shall meet all of the requirements for fresh crab meat. The pasteurization process shall be conducted under the same roof as where the crab meat is packed.

(k) The containers of crab meat to be pasteurized shall be sealed as quickly as possible after the meat is picked.

(l) The sealed containers of crab meat to be pasteurized shall be placed under mechanical refrigeration at air temperatures of 40 degrees Fahrenheit or less immediately after packing, unless they are to be pasteurized immediately after packing.

(m) Crab meat may be packed by one processor for another in containers furnished for that purpose by the latter. In all instances the products processed under operations permitted by this paragraph shall meet the labeling requirements of this section.

(n) Crab meat for pasteurization shall be pasteurized within 24 hours of the time it is picked. The minimum pasteurization specifications shall be the raising of the internal temperature of the container of crab meat to 185 degrees Fahrenheit and holding at that temperature for at least one minute at the geometric center of a container approved by the department. Each set of pasteurizing equipment shall be standardized so that the pasteurization treatment as described by this section can be obtained. The pasteurizer shall keep on file the standardization report, and his pasteurization procedure shall be performed in accordance with it.

(o) The containers of pasteurized crab meat shall be chilled by cooling to 100 degrees Fahrenheit within 50 minutes to allow refrigerated storage within one hour after processing. The procedure for chilling shall be standardized. Pasteurized containers of crab meat shall be refrigerated immediately after reaching 100 degrees Fahrenheit.

(p) Mechanically refrigerated storage shall be provided for the chilled pasteurized crab meat and shall maintain a storage temperature at or below 40 degrees Fahrenheit but above 32 degrees Fahrenheit. Pasteurized crab meat shall be transported under mechanical refrigeration between these same temperatures.

(q) The label used shall clearly identify the contents of the container as pasteurized crab meat. Whenever the term CRAB MEAT (or its equivalent) appears on the label, the word PASTEURIZED shall be used in conjunction with it and in print of similar prominence.

(r) Each container of pasteurized crab meat shall be permanently and legibly identified with a code indicating the batch and the day of processing.

(s)-(t) (No change.)

(u) When crab meat is packed by one licensed crab meat picking plant and pasteurized in another licensed crab meat pasteurization plant, the label shall clearly state the name and license number of both the packer and the pasteurizer. All containers of

pasteurized crab meat shall have permanently recorded on the principal display panel, so as to be easily visible, the following information:

- (1) the packer's or distributor's name;
- (2) the packer's or distributor's address, including at least the city and state; and
- (3) the one to five digit license number preceded by the two letter state abbreviation and followed by the one or two letter abbreviation for the type of operation the dealer is qualified to perform.

(v) Where the name and address of the distributor is used, it shall be preceded by the words PACKED FOR or DISTRIBUTED BY or followed by the word DISTRIBUTOR.

(w) The presence of any chemical, if any is allowed, and the net weight of the contents shall be permanently recorded on the container. The proper designation of the content of the container shall be required, (lump, special, claw, fingers, etc.).

(x) Such other matter pertinent to the public health as may be required by the department shall be recorded on the container.

(y) All required information shall be provided in a legible and indelible form, and shall be either on the sidewall of the container or the cover or shall be sealed into an area where it remains legible and visible as the principal display panel until all product from the container has been used or disposed of. All information, except that which must be added by the licensed dealer, shall be impressed, embossed, lithographed, or otherwise permanently recorded on the container or the label by the container printing company. All labeling is subject to review and approval by the SSD.

#### §241.20. General Maintenance and Cleanliness.

(a)-(c) (No change.)

(d) No wild or domestic animals other than crabs or other animals as allowed by this undesignated head to be processed shall be permitted in any crab meat processing area of the plant. Unauthorized persons shall be excluded from the processing areas of the plant.

#### §241.22. Single Service Containers.

(a) Containers for crab meat shall be clean; shall be constructed of non toxic metal, food grade plastic, or other impervious, durable material; and shall be designed and fabricated so that the contents shall be protected from contamination during shipping and storage.

(b)-(d) (No change.)

#### §241.23. Labeling Fresh or Fresh Frozen Crab Meat.

(a)-(b) (No change.)

(c) The principal display panel on each container of fresh or fresh frozen packed crab meat shall contain a calendar date. This date shall be the date of packing. The calendar date shall consist of and be in the following order: the abbreviation for the month, the numerical day of the month, and the year, unless a code date is established and used in accordance with subsection (d) of this section.

(d) If the date is a code date, the method of determining that date shall be based on the date the crab meat is packed. The proposed method must be submitted in writing to the SSD and approved by the SSD before being used.

(e) The presence of any chemical, if any is allowed, and the net weight of the contents shall be permanently recorded on the

container. The proper designation of the content of the container shall be required, (lump, special, claw, fingers, etc.) and may be recorded on either the container sidewall or on the lid.

(f) Frozen crab meat shall be labeled as FROZEN, Individually Quick Frozen, or IQF, in print of similar prominence adjacent to the words CRAB MEAT. The words FROZEN, Individually Quick Frozen, or IQF, shall be impressed, embossed, lithographed, or otherwise permanently recorded on the container. Stamping shall not be allowed. Containers shall be marked as frozen prior to freezing.

(g) (No change.)

(h) Such other matter pertinent to the public health as may be required by the department shall be recorded on the container.

(i) All required information shall be provided in a legible and indelible form, and shall be on the sidewall of the container unless the cover becomes an integral part of the container during the sealing process. All information, except the date and the word FROZEN, if added by the dealer, shall be impressed, embossed, lithographed, or otherwise permanently recorded on the container by the container printing company, unless, an adhesive label which has been approved by the SSD is used. Adhesive labels shall be durable and waterproof and shall not be used unless prior approval from the SSD is obtained. The request must be submitted in writing. All labeling is subject to review and approval by the SSD.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 29, 1996.

TRD-9605893 Susan K. Steeg  
General Counsel  
Texas Department of Health

Effective date: June 1, 1996

Proposal publication date: February 9, 1996

For further information, please call: (512) 458-7236

### Molluscan Shellfish

#### • 25 TAC §241.51, §241.55

The Texas Department of Health (department) adopts amendments to §241.51 and §241.55, concerning Texas molluscan shellfish. Section 241.55 is adopted with changes to the proposed text as published in the February 13, 1996 issue of the *Texas Register* (21 TexReg 1034). Section 241.51 is adopted without changes and, therefore, will not be republished.

The amendments implement the requirements and guidelines established in the 1995 *National Shellfish Sanitation Program Manual of Operations*, Part I, dealing with a harvest control to reduce risk of illness attributable to a naturally occurring organism, *Vibrio vulnificus*. The amendments establish definitions and standards for a time-to-refrigeration matrix which will reduce the amount of time shellfish remain unrefrigerated after harvest and before the harvest boats are unloaded.

A summary of comments and the department's responses to the comments follows.

COMMENT: Concerning §241.55(a)(14), one comment was received that all harvest records should be available at the certified dealer's location.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.55(a)(14)(B)(i), one comment was received that overprinting a standard tag with neon-green print would be less expensive than using neon-green tags and would be just as effective.

RESPONSE: The department agrees and has made the appropriate changes.

COMMENT: Concerning §241.55(a)(14)(B)(iv), one comment was received that all certified dealer tags attached to shellfish harvested

under exemption to the time requirements should have the same neon-green over stamping as harvester tags.

RESPONSE: The department agrees and has made the appropriate changes.

Editorial changes were made for clarification or consistency purposes.

All of the commenters were individuals. The commenters were generally in favor of the rules; however, they expressed concerns and questions relating to the changes.

The amendments are adopted under Texas Parks and Wildlife Code, §76.203, which authorizes the Texas Board of Health to adopt rules concerning the regulation of Texas molluscan shellfish; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

#### §241.55. *Harvesting and Handling Shellstock.*

##### (a) Boats and trucks.

###### (1)-(11) (No change.)

(12) Commercial harvesters shall be responsible for control of their shellstock until acceptance by a certified dealer. Commercial harvesters shall be required to deliver shellstock to a certified dealer within the day the shellstock is harvested. For this purpose a day shall be considered to be midnight to midnight. Delivery of the shellstock is considered to be the packing of the shellstock into an approved container, transfer of the shellstock from the boat to a certified location and acceptance of the shellstock by the certified dealer. Commercial harvesters shall sell their shellstock only to a currently certified shellfish dealer. It is illegal for commercial harvesters to sell shellstock directly to the public.

(13) Mechanical refrigeration facilities shall be required for purposes of dealer certification at each certified location. Mechanical refrigeration which is mobile shall be immobilized or designated, in writing to the SSD, as the shellfish storage facility. Removal of immobilized or designated refrigeration shall constitute voluntary surrender of certification by the certified dealer for that certified location. Shellstock shall be placed under mechanical refrigeration at air temperatures between 45 degrees Fahrenheit and 35 degrees Fahrenheit within two hours of unloading from the boat. Shellstock shall not be allowed to remain on a dock unrefrigerated for more than two hours. During the period April 1 through April 30, shellstock shall not be harvested before 6:00 a.m. and shall be placed under mechanical refrigeration by 8:00 p.m. each day. Mechanical refrigeration facilities shall be adequate in size and cooling capacity to refrigerate all shellstock on the premises. Each facility shall be equipped with an automatic temperature regulating control (thermostat) and an indicating thermometer installed to accurately measure, within three degrees, the temperature in the warmest location in the storage compartment.

(14) During the period May 1 through October 31, shellfish which may be intended for consumption raw, directly from the shell, shall be refrigerated as designated in paragraph (13) of this subsection, within the times established for each month by the bureau chief of the Bureau of Food and Drug Safety. Each harvester shall maintain records for each date shellfish are harvested that show the time the first shellfish are harvested; the time harvesting ends; and the time the shellfish are unloaded from the boat. These records shall be provided to the certified dealer with the shellstock and shall be maintained as part of the certified dealer's records.

(A) The time from first harvest to refrigeration shall be established based on the average monthly maximum water temperature (AMMWT) and shall be in effect from 12:01 a.m. of the first day of the month until 11:59 p.m. of the last day of the month. The time shall be based on the following AMMWT ranges:

(i) AMMWT 65 degrees Fahrenheit-74 degrees Fahrenheit, 14 hours;

(ii) AMMWT 75 degrees Fahrenheit-84 degrees Fahrenheit, 12 hours; and

(iii) AMMWT ≥84 degrees Fahrenheit, 6 hours.

(B) Any shellfish which may be held without refrigeration for periods of time longer than those established in subparagraph (A) of this paragraph shall not be harvested before 6:00 a.m. and shall be placed under refrigeration as designated in paragraph (13) of this subsection by 8:00 p.m. each day and shall be identified, stored, and processed separately from shellfish that are refrigerated within the time periods.

(i) Shellfish harvested and held exempt under this paragraph shall be tagged with a harvester tag meeting all requirements that shall be over stamped on both sides with the words "FOR SHUCKING BY A CERTIFIED DEALER" in ink that shall be neon green in color in letters at least one-half inch in height. This special harvester tag shall be placed on each container of shellfish at the conclusion of harvesting of these exempt shellfish and before harvesting of any other shellfish. This special harvester's tag shall remain attached to each container until the shellfish are shucked.

(ii) If shellfish are harvested and held exempt under this paragraph, the harvester records required shall also include the time that harvesting of these exempt shellfish stops and the time that harvesting of other shellfish begins.

(iii) Shellfish harvested, and held exempt under this paragraph, shall not be commingled with any other shellfish and shall be stored separately on harvest boats and at any certified location.

(iv) Shellfish harvested, and held exempt under this paragraph, shall be shucked and placed in containers bearing the consumer information language adopted by the Interstate Shellfish Sanitation Conference, or an equivalent approved in writing by the SSD prior to use, unless the invoice and bill of lading for shipment of these exempt shellstock to another certified dealer both contain the following statement: "FOR SHUCKING BY A CERTIFIED DEALER. All certified dealer tags attached to shellfish harvested under the exemption in subparagraph (B) of this paragraph shall be over stamped identical to the harvester tag.

(15) Refrigerated shellstock shall be maintained at internal temperatures between 45 degrees Fahrenheit and 35 degrees Fahrenheit. After initial refrigeration, shellstock removed from refrigeration shall not be permitted to remain in air temperatures above 45 degrees Fahrenheit for more than two hours. The internal air temperature in trailers shall be at or below 45 degrees Fahrenheit when shellstock loading begins.

(16) Trucks used to transport shellstock shall have the storage area constructed of a nontoxic, smooth, impervious material so as to protect the shellfish from contamination and shall be kept clean. Shellstock shall be transported on land by harvesters, certified dealers, or any distributor in mechanically refrigerated trucks that can maintain an air temperature between 45 degrees Fahrenheit and 35 degrees Fahrenheit, shall be palletized, and shall be arranged to allow maximum air circulation. Shellstock storage areas shall be similarly constructed.

(17) Dogs, cats, or other animals shall not be permitted on vessels, in vehicles, or in any other area where shellstock is held or transported.

###### (b)-(c) (No change.)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 29, 1996.

TRD-9605894 Susan K. Steeg  
General Counsel  
Texas Department of Health

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For further information, please call: (512) 458-7236

## Chapter 289. Radiation Control

The Texas Department of Health (department) adopts the repeal of §289.113; and adopts new §289.202, concerning standards for protection against radiation. New §289.202 is adopted with changes to the proposed text as published in the December 26, 1995, issue of the *Texas Register* (20 TexReg 11082). The repeal is adopted without changes and therefore the repeal will not be republished.

The repealed §289.113 adopted by reference Part 21, titled "Standards For Protection Against Radiation" of the Texas Regulations for Control of Radiation (TRCR). The new section incorporates language from Part 21 that has been rewritten in Texas Register format and includes clarification of several subsections of the section. The clarified requirements concern definitions; determination of the effective dose equivalent when using fluoroscopic equipment; determination of occupational dose for the current year; planned special exposures; determination of dose to the embryo/fetus when multiple monitoring measurements are made; the location where individual monitoring devices are to be worn; posting; and recordkeeping. A memorandum of understanding between the department and the Texas Water Commission was deleted because it is outdated and inaccurate; and the limits for acceptable surface contamination were revised to clarify the appropriate limits for several isotopes of iodine.

The repeal and new section are part of the first phase to convert existing sections that adopt by reference the various parts of the TRCR to Texas Register format.

Following is a summary of changes that were made to the section as a result of comments received.

In subsection (c)(6), the definition of "dosimetry processor" was changed to replace the word "individual" with "personnel" to more accurately reflect the type of monitoring devices evaluated. In subsection (n)(3)(B), the words "or registrant's" were deleted because a registrant does not have to apply for authorization to operate up to an annual dose limit for an individual member of the public of 0.5 rem. In subsection (o)(2)(B)(ii), the words "of radiation" were added for clarification so that the language now reads, "... the dose from external sources of radiation would not exceed...". In subsection (p)(2)(B), the words "more restrictive" were deleted and substituted with the word "different" to take into account different calibration intervals that may not be more restrictive. In subsection (p)(5), the words "for healing arts purposes" were added to the end of the sentence to clarify that the exemption does not apply to assemblers/consultants who may perform calibration or maintenance of the dental radiographic systems. In subsection (q)(2), a revision was made to reflect the fact that other healthcare personnel in addition to nurses may enter a high radiation area while providing patient care; the subsection now reads, "Notwithstanding paragraph (1)(C) of this subsection, a licensee is exempt from supplying individual monitoring devices to healthcare personnel who may enter a high radiation area while providing patient care if:". In subsection (q)(2)(A), the word "nursing" was deleted to be consistent with the change in subsection (q) (2). In subsection (q)(2)(B), the words "or registrant" were deleted to be consistent with the change in subsection (q)(2). In subsection (r)(1)(B), the sentence was revised to clarify confusion about possible contradiction with subsection (q)(1)(A); the subsection now reads, "If an additional individual monitoring device is used for monitoring the dose to an embryo/fetus of a declared pregnant woman, in accordance with subsection (m)(1) of this section, it shall...". In subsection (r)(2), the specific timeframes and paperwork requirements were deleted because they caused an unnecessary burden to licensees/registrants; the subsection now reads, "Each licensee or registrant shall ensure that individual monitoring devices are returned to the dosimetry processor for proper processing." In subsection (bb)(3), the terms "sealed source," "sealed source container," and

"housing" were made plural to clarify that the exemption from posting applies if more than one source is stored in a room or area as long as the required radiation levels are met. In subsection (rr)(2), the words "and within 60 days of the end of the year" were added to the end of the sentence to clarify not only how often, but by when recordkeeping entries should be made. In subsection (zz), the words "or registrant" were deleted because planned special exposures do not apply to registrants. Subsection (ggg)(7) was clarified by deleting "I-125, I-126, I-131, and I-133" from the group of nuclides in which they were listed; these nuclides were included in the group of beta-gamma emitters. Other minor grammatical and reference changes were made to the section.

The following are the public comments made concerning the proposed section and the department's responses to those comments.

Comment: Concerning the section in general, two commenters emphasized support for the revisions/additions to subsections (f)(5); (j); (j)(5); and (m) (3).

Response: The department acknowledged the comment and made no change as a result of the comment.

Comment: Concerning the section in general, one commenter recommended recognizing the efforts of the National Council on Radiation Protection (NCRP) to become evermore precise in occupational dose identification. First, there was dose equivalent and then effective dose equivalent, and now effective dose as described in NCRP Report 116 published in 1993. The commenter suggested that the NCRP is correct and that the department should adopt the effective dose term.

Response: In order to achieve and maintain nationwide consistency in many radiation protection standards, those standards must be essentially identical from state to state. Certain definitions and dose limits are examples of those standards and as such, the United States Nuclear Regulatory Commission (NRC) has designated them, including the term "effective dose equivalent," as strict items of compatibility. As an agreement state, Texas must adopt the term essentially verbatim to that of the NRC. The department made no change as a result of the comment.

Comment: Concerning subsection (c)(6), a commenter asked if a licensee couldn't also process and evaluate individual monitoring devices under the definition of "dosimetry processor."

Response: TRCR Part 42 as adopted by reference in 25 TAC §289.122 (relating to Registration of Radiation Machine Use and Services) provides for the registration of persons who are in the business of providing registration services. The provision of personnel dosimetry services is listed in 42.1(c)(8) of TRCR Part 42 as a radiation service. Therefore, by rule, a dosimetry processor is a registrant. The department made no change as a result of the comment.

Comment: Concerning subsection (c)(6), a commenter suggested that the word "personnel" replace the word "individual" in order to very clearly set "dosimetry processors" apart from other radiation dose monitors such as area monitors and other types of chambers.

Response: The department agreed with the comment and changed the definition of "dosimetry processor" to read, "...means a registrant that processes and evaluates personnel monitoring devices...".

Comment: Concerning subsection (c)(6), a commenter stated that in the definition for "dosimetry processor," the term "registrant" is confusing. The commenter suggested that the definition read: "...an individual or organization that is registered with the Texas Department of Health, Bureau of Radiation Control, to provide dosimetry services in the State of Texas."

Response: The term "registrant" is currently defined in 25 TAC §289.201 (relating to General Provisions) as "any person issued a certificate of registration by the department pursuant to this chapter and the Texas Radiation Control Act." The department made no change as a result of the comment.

Comment: Concerning subsection (f)(5), four commenters stated that although this requirement is generally helpful to fluoroscopy users, the phrase "and the reported dose exceeds 25% of the limit specified in subsection (f)(1)" should be eliminated or modified to allow use of the 0.3 correction factor for any occupational exposure involving fluoroscopy. The commenters noted that it is appropriate, as proposed, that a registrant be able to not exercise this option, but if chosen, the

commenter urged that the correction factor be utilized for any exposures received. The commenters' proposed modification would allow the badge vendor to apply the correction factor to each exposure for the applicably coded person. It also relieves institutions of an additional paperwork burden required to apply the correction factor only after a 25% limit has been exceeded.

The commenters also requested that, if the language is retained in its proposed form, clarification of the rationale for using the 0.3 correction factor only when the recorded dose exceeds 25% of the limit specified in subsection (f)(1). The commenters asked for clarification as to whether this approach can be selectively used and if the commercial dosimetry services will be allowed to perform those calculations or if the licensee/registrant is required to perform the calculation subsequent to the dosimetry services report.

Response: Personnel who perform or assist in fluoroscopic special procedures commonly have collar monitor deep dose equivalent values well in excess of those for routine fluoroscopy, and these annual dose equivalent values are likely to be in excess of 5 rem for full-time angiographers and interventionalists who wear their monitors properly. These values have historically caused frequent overexposure incidents, when in fact, the associated effective dose equivalent was much lower because of the use of protective aprons.

The proposed changes define procedures by which the effective dose equivalent can be determined for special procedures fluoroscopists for whom the current method of overestimating effective dose equivalent is unacceptable, while excluding personnel who may be working in routine fluoroscopic or radiographic procedures.

Wearing two individual monitoring devices has at least two drawbacks. The individual may confuse wearing the two monitors and inconsistently wear them in the same location, and the cost of monitors is doubled. Fluoroscopy personnel who perform or assist in routine fluoroscopic or radiographic procedures do not receive doses sufficiently high to warrant the expense and potential confusion of wearing two monitors in order to require a more accurate determination of effective dose equivalent. The criterion to allow calculation of effective dose equivalent based on the unshielded collar monitor by use of a 0.3 multiplication factor is set at 25% of the dose limit for the purpose of separating personnel who work in special procedures from personnel who work in routine fluoroscopic or radiographic procedures.

Therefore, the number of individuals who may exceed the 25% limit and utilize two badges and the multiplication factors will be limited. The department made no change as a result of the comments.

Comment: Concerning subsection (f)(5), a commenter questioned how previous exposure accumulation during the year is handled in conjunction with this subsection. The commenter also noted that he has taught many students that film badges or personnel monitors do not protect you and the proposed section seems intended to legislate physics to do just that.

Response: Previous exposure accumulation during the year is to be considered when applying this subsection. The subsection is not intended to legislate physics. For regulatory purposes, it provides a method of more accurately calculating the effective dose equivalent. The department made no change as a result of the comment.

Comment: Concerning subsection (j), a commenter noted that the revisions suggested in the proposed changes are a great improvement over the current regulation. The changes seem reasonable and easy to follow.

Response: The department acknowledged the comment and made no change as a result of the comment.

Comment: Concerning subsection (k), one commenter stated that the proposed revision represented excellent changes for the improvement of this burdensome section and noted that the elimination of the planned special exposures for registrants is also an important change for the better.

Response: The department acknowledged the comment and made no change as a result of the comment.

Comment: Concerning subsection (l), a commenter disagreed with the permissive nature of this subsection considering the lack of conclusive information of the effects of chronic low exposures to ionizing radiation. The commenter sees no reason for allowing minors to receive any

exposure in excess of that permitted for the general public. This change is not consistent with keeping exposures as low as reasonably achievable and could unnecessarily expose the actively growing tissues of an immature biological organism to radiation.

Response: The subsection applies to minors receiving an occupational dose, not minors as members of the public. This dose limit is also a matter of strict compatibility with the NRC. The department made no change as a result of the comment.

Comment: Concerning subsection (m)(3), a commenter recommended an additional requirement be added to read: "As calculated by a qualified medical physicist so that the dose to an embryo/fetus shall be taken as the dose calculated by a qualified medical physicist."

Response: The subsection applies to a dose to the embryo/fetus received while the declared pregnant woman is receiving an occupational dose, either in an industrial or medical setting. Determination of whether the calculation of a dose to an embryo/fetus is within the practice of medical physics must be made by the Texas Board of Licensed Medical Physicists. The department made no change as a result of the comment.

Comment: Concerning subsection (m), a commenter noted that subsection (m)(1) references subsection (rr), but there is no direct mention made of records concerning embryo/fetus dose in that reference. Subsection (rr) should clearly indicate that embryo/fetus doses must be recorded. Additionally, the declaration of pregnancy should be required to be clearly documented by a letter of other written notice to the registrant or licensee. This would protect both the worker and the licensee or registrant. It would also make review by the department easier when there is no question of declaration.

Response: Subsection (rr) requires records of doses to an embryo/fetus and requires that those records be kept with the dose records of the declared pregnant woman. The definition of "declared pregnant woman" requires that the declaration of pregnancy be in writing and subsection (rr)(4) requires the written declaration be maintained. The department made no change as a result of the comment.

Comment: Concerning subsection (m)(3)(B), two commenters noted that this requirement is another case of overkill which is not supported by scientific investigation and is inconsistent with subsection (f). The response of a collar-positioned monitor does not represent the dose to the embryo/fetus and even the application of the 0.3 conversion factor would result in a considerable overestimation. The commenters noted that the truth lies somewhere below 0.1 according to all of the evaluations published on this subject. One of the commenters recommended the rule be changed to read: "...if multiple measurements have not been made, the reported deep dose equivalent value multiplied by 0.3 shall be the dose to the embryo/fetus; or..."

Response: For regulatory purposes, the subsection provides reasonable methods for estimating a dose to the embryo/fetus. The department made no change as a result of the comment.

Comment: Concerning subsection (n), three commenters stated that, notwithstanding the report of the NCRP, there is no reason for considering the exposure to registered devices less dangerous than exposure from gamma emitting nuclides. In essence this subsection says x-rays are less dangerous than gamma rays and sends the wrong message to the public.

One of the commenters noted that considering the availability of commercially made lead shielding for radiation machine installations, the requirement for these devices to meet the same standards as any other facility is not unreasonable. Even after making prudent adjustments for the unreasonably high workload recommended in NCRP Report 49, for a small office diagnostic x-ray room the calculated lead shielding requirement may be in the order of five inches if gypsum board is not available as a stock item. It is economically impractical to have it made special because this would drive up the cost. Most facilities therefore opt for the 1/32 inch lead on gyp board at a cost of about \$60 per 4 x 8 sheet from manufacturers. The idea that a couple of pieces of ordinary gyp board will stop x rays sufficiently is generally a myth. This is true even considering a small workload. One of the commenters stated that to be consistent with keeping exposures as low as reasonably achievable, there should be no difference in the allowable dose from x rays or radionuclides.

Response: A study performed by a dosimetry processor showed that in a population of over 19,000 medical radiation workers from 50 typical

medical installations and covering a 10 year period, 86.6% +/- 4.4% of diagnostic x-ray workers had yearly doses below 100 millirem and 96.3% +/- 2.0% had yearly doses below 250 millirem. This data represents a conservative estimate for possible doses to members of the public in surrounding unrestricted areas. The department realizes that existing radiation safety procedures and shielding have resulted in keeping these doses as low as reasonably achievable. Therefore, the department has retained the 0.5 rem total effective dose equivalent limit to members of the public from exposure to diagnostic and therapeutic radiation machines as a maximum limit and requires compliance with subsection (e)(2) to keep doses as low as reasonably achievable. The department made no change as a result of the comments.

Comment: Concerning subsection (n)(1)(B), one commenter noted that "radiation machines" is not defined and suggested that subsection (n)(1)(B) should read "...radiation producing machines..." rather than "radiation machines."

Response: The term "radiation machines" is defined in 25 TAC §289.201. The department made no change as a result of the comment.

Comment: Concerning subsection (n)(3)(B), one commenter recommended that the word "registrant's" be deleted.

Response: The department agreed with the comment and deleted the words, "or registrant's."

Comment: Concerning subsection (o)(2)(B)(ii), a commenter suggested that if the term "external sources" means radioactive material, then the section should state that.

Response: The department added the words, "of radiation" to clarify the language so that the sentence reads "...the dose from external sources of radiation would not exceed..."

Comment: Concerning subsection (o)(3), a commenter noted that the exemption proposed is consistent with the concept that some machines are minimal threat devices.

Response: The department acknowledged the comment and made no change as a result of the comment.

Comment: Concerning subsection (p)(2)(E), a commenter questioned whether the requirement for 20% accuracy applies to all types of dosimeters as well as instruments.

Response: The requirement for an accuracy within 20% of the true radiation level is intended for radiation measurement instruments, not dosimeters. The term "...operable and calibrated" implies a reference to instruments rather than dosimeters. The department made no change as a result of the comment.

Comment: Concerning subsection (p)(3)(C), a commenter noted that the language appears to require an organization outside the state of Texas to become registered in order to supply Texas licensees and registrants with personnel monitoring devices. The commenter agreed with this concept since other jurisdictions may not exercise the control that a more industrialized state such as Texas may need for protection of the workers.

Response: The department acknowledged the comment and made no change as a result of the comment.

Comment: Concerning subsection (q)(2), a commenter recommended that this exception be widened for all healthcare personnel. Many occasions may arise in which specialized personnel (e.g., respiratory therapists) will need access to the patient and/or room. Assuming that all of the requirements of subsection (q) are met, any required personnel should be allowed.

Response: The department agreed with the comment and changed the language to refer to healthcare personnel rather than nursing personnel.

Comment: Concerning subsection (q)(3)(B), one commenter suggested that the term "ALARA" be used instead of referencing subsection (e)(2).

Response: It is acceptable practice to reference subsections of the section. This practice provides an efficient method of relating various subsections of the rule instead of repeating verbiage throughout the section. The department made no change as a result of the comment.

Comment: Concerning subsection (r), one commenter stated that there is nothing objectionable in this subsection, but it does seem excessively prescriptive considering that there are standards to be met before a person may act as Radiation Safety Officer (RSO) for a registrant or licensee. The commenter recommended that the instructions for wearing and using monitoring devices should be left to the judgement of the RSO if the RSO meets the education and experience requirements of 25 TAC §289.252 (relating to Licensing of Radioactive Material) and TRCR Part 42.

The commenter also questioned if the proposed language means that requirements for an RSO in 25 TAC §289.252 and TRCR Part 42 have failed to provide adequate training and experience for persons who are appointed to be an RSO, or does it mean the requirements for RSOs should be more vigorously implemented by the department to avoid the necessity to develop such prescriptive regulations.

Response: The department has historically and consistently received inquiries concerning the proper location for wearing individual monitoring devices and the proposed language is a response to those inquiries. The department made no change as a result of the comment.

Comment: Concerning subsection (r)(1)(B), a commenter noted that there is one distinct contradiction between what is discussed in subsection (m)(3) and this requirement. Unless the department is requiring the use of two monitoring badges for pregnant women (which contradicts subsection (m)(3)(B)), a single badge must be located at two locations. Subsection (r)(1)(A) indicates that a badge worn for determining whole body exposure is to be worn outside a protective apron, typically at the neck. If only one badge is used, this prohibits meeting the requirement of subsection (m)(3) which requires placing the monitor at the waist in the case of a pregnant woman. If the department is requiring the use of two monitors, then it should be stated explicitly. The commenter suggested removing this requirement or making it a suggestion (may be located or typically located, rather than shall be located). In addition, the commenter noted that there is no indication how subsection (f)(5)(B) will apply in situations of pregnant women, or if it will apply.

Response: For clarification, the department has reworded the requirement to read, "If an additional individual monitoring device is used for monitoring the dose to an embryo/fetus of a declared pregnant woman, in accordance with subsection (m)(1), it shall be..."

Comment: Concerning subsection (r)(1)(C), a commenter noted that subsection (r)(1)(A) and (C) are not compatible. Dosimetry vendors provide a single whole body badge for each monitored individual which uses filters to determine all three dose equivalents at different depths—7mg/cm<sup>2</sup> (SDE,wb), 300 mg/cm<sup>2</sup> (LDE), and 1000 mg/cm<sup>2</sup> (DDE). Subsection (r)(1)(A) requires that the badge be worn "at the unshielded location of the whole body likely to receive the highest exposure." If that location happens to be anywhere other than the collar (or higher), then that person cannot comply with subsection (r)(1)(C), which requires that it be worn at the collar or higher. The commenter recommended changing the "shall" in subsection (r)(1)(C) to "should" or deleting the entire subsection.

Response: In comparison to the doses monitored, monitoring for eye dose equivalent is very infrequent. If a situation arises in which the monitor for the whole body is located other than at the neck and the eye dose must also be monitored, two badges may be required. The department made no change as a result of the comment.

Comment: Concerning subsection (r)(1)(F), two commenters suggested eliminating the phrase "...whichever is more restrictive" or modifying it to exempt dosimeters used to measure only alpha, beta, gamma or x-ray radiation. The commenters are aware of no such National Voluntary Laboratory Accreditation Program accredited dosimeters that could not provide an adequate exposure if read within 3 months.

Response: The dosimetry processor commits to a time interval as appropriate for accurate processing when applying for a certificate of registration. The certificate of registration then authorizes that interval. The department made no change as a result of the comments.

Comment: Concerning subsection (r)(2), five commenters suggested deleting this requirement as it does not appear that imposing a 14-day timeframe for returning dosimeters and requiring additional paperwork for each wearer will effectively resolve problems such as lost badges or badges unreturned due to absences. Most licensees and registrants already have mechanisms for controlling and

documenting such problems. The commenters stated that adding a 14-day limit will be an unnecessary added burden, particularly for institutions with large monitoring programs, such as the M.D. Anderson Cancer Center and The University of Texas Medical Branch which purchase and distributes approximately 10,000 badges on an annual basis. Personnel issues such as vacation, sickness, and varied work shifts in a hospital will make this recordkeeping exceedingly difficult. The commenters noted that if this provision is retained, the "or as soon as practical" requirement is too vague and suggested that the time limit be extended from 14 to at least 30 days.

Response: The department deleted the timeframe and the language now reads "Each licensee or registrant shall ensure that individual monitoring devices are returned to the dosimetry processor for proper processing."

Comment: Concerning subsection (s)(2), a commenter recommended replacing the term "is capable of" with "will perform by." This causes the regulations to require an operating system because the term "is capable of" does not mean that a system is operational in a manner that will do a desired job.

Response: The intent of the requirement is not for the surveillance system itself to prevent entry but to provide a means for achieving prevention. The department made no change as a result of the comment.

Comment: Concerning subsection (y), one commenter stated that this is a very appropriate rule and it should not cause an inconvenience to registrants or licensees.

Response: The department acknowledged the comment and made no change to the section as a result of the comment.

Comment: Concerning subsection (y)(1), one commenter noted that in many hospitals, the night cleaning staff open all the doors in an area and then work on one room at a time. This leaves x-ray therapy rooms unsecured.

Response: If radiation machines or radioactive material is available for unauthorized removal, the facility is in violation of the requirement. The department made no change as a result of the comment.

Comment: Concerning subsection (aa)(3), two commenters noted that although the removal of the word "GRAVE" from this posting requirement is helpful, the commenters strongly recommended that this be further modified so that medical therapy treatment rooms are specifically exempted from using the posting "DANGER, VERY HIGH RADIATION AREA" and that such rooms continue to be posted with "CAUTION, HIGH RADIATION AREA" signs only. To the extent that patients under treatment notice the wording changes, the addition of the words, "DANGER" and "VERY" will only needlessly heighten anxiety for many such patients.

The commenters also noted that since rooms with diagnostic and therapy x-ray systems and teletherapy units are exempted from provisions of subsection (t) and (u), it seems to serve no purpose to require posting of "DANGER", "VERY HIGH RADIATION" on these type rooms. There appears to be no benefit that offsets the cost and potential confusion of this posting in a medical setting.

Response: The terminology required on the posting is an item of compatibility with the NRC. While deleting the word "GRAVE" for postings in medical settings is appropriate, deleting "DANGER" and "VERY" threatens the compatibility of the rule to a greater degree. The posting is appropriate considering personnel other than patients may enter the area. The department made no change as a result of the comments.

Comment: Concerning subsection (dd)(6), one commenter stated that this exemption from labeling for "...installed manufacturing or process equipment, such as piping and tanks" would not allow oil field workers or chemical plant workers to know whether or not they were dealing with radioactive scale or sludge when performing normal maintenance procedures on processing equipment, piping, or tanks. The commenter further stated that this is not fair to the worker and that all radioactive contaminated equipment should be surveyed and appropriately marked.

Response: TRCR Part 46 as adopted by reference in 25 TAC §289.127 (relating to Licensing of Naturally Occurring Radioactive Material (NORM)) requires that any maintenance other than routine maintenance

done on equipment, facilities, or land that is contaminated above the regulatory limits be done by a person specifically licensed to do so.

The intent of that subsection is that any maintenance that alters the exposure pathways to workers is not routine. The exemption in this subsection is intended for installed manufacturing or process equipment, such as piping and tanks, during normal operating conditions. The department made no change as a result of the comment.

Comment: Concerning subsection (ee)(3), one commenter suggested modifying the language to indicate that if a package received after normal working hours is severely damaged and/or possibly leaking, the package will either be surveyed immediately by designated radiation safety personnel or the package will be isolated and designated radiation safety personnel contacted. Such a package should be surveyed within 3 hours of receipt by designated radiation safety personnel and control measures implemented as needed.

The commenter noted that most licensees do not have trained radiation safety personnel on site at all times after normal working hours. It is not practical or safe to rely on receiving, security, housekeeping, or other persons normally present after normal working hours, to perform more than simple emergency segregation and contact radiation safety personnel.

Response: The licensee should have procedures for notifying radiation safety personnel who are available after hours to perform the survey. The department made no change as a result of the comment.

Comment: Concerning subsection (ee)(4)(B)(i), one commenter recommended that the last line should read "The transport index shall not exceed 10 millirems/hr (0.1 mSv/hr) at 1 meter from the package."

Response: The definition of "transport index" state in part "The transport index is determined by the number expressing the maximum radiation level in millirem per hour at 1 meter from the external surface of the package." The transport index is a dimensionless number, therefore the language is appropriately worded. The department made no change as a result of the comment.

Comment: Concerning subsection (ff)(1)(B), one commenter recommended deleting the phrase "...with prior approval from the agency." The commenter stated that the wording does nothing but add another paperwork burden to licensees and department staff. Decaying in storage does not remove any of the licensee's responsibilities for meeting personnel exposure requirements or any other disposal requirements, so it seems unnecessary to obtain a prior review of such procedures by the department. It would seem more appropriate to describe actual decay in storage procedures in the licensee's Radiation Protection Program for review by department inspectors.

Response: It is the responsibility of the department to ensure that a licensee has the appropriate procedures, equipment, and facilities to store licensed material in a manner that is protective of public health and safety and the environment. The department made no change as a result of the comment.

Comment: Concerning subsection (jj)(5), one commenter stated that this requirement should be deleted since it places a totally unnecessary and probably unworkable requirement on both department personnel and licensees. There are probably more than one million packages containing radioactive material, including low-level radioactive waste, being transported each year on the nation's roads under the United States Department of Transportation regulations that require extensive packaging, manifest and labeling procedures, but do not require prior inspection by a regulatory agency. The extremely small number of accidents involving such shipments to date have not involved any harmful effects to members of the general public or the environment. There is nothing "broken" here, so why "fix" it, particularly in this burdensome way? The commenter asked to be informed of the source if this requirement results from a legislative or legal mandate.

Response: The requirement results from a legislative mandate contained in the Health and Safety Code, Chapter 402. The department made no change as a result of the comment.

Comment: Concerning subsection (ll)(4), two commenters stated that this requirement places a significant and unnecessary burden on licensees/registrants. Duplicate sets of records should be avoided whenever possible. Keeping one set of records in the Radiation Safety Office and another individualized set at seven satellite sites would require a significant investment in personnel time and paperwork.



The commenters recommended that, if this requirement is retained, complete duplicate records of personnel exposure should not be required. For example, the copy of personnel exposure reports sent to Departments/Sections to be made available to monitored personnel does not contain each person's social security number or date of birth in order to prevent general public disclosure of what is considered strictly personal information. Also, for the purposes of routine inspection, it should be totally unnecessary to duplicate each person's complete monitoring file. If a satellite site is a significant distance from the main site and an department inspector feels a copy of a record is needed, the licensee/registrant should be allowed to fax a copy to the site if equipment is available.

Response: The records to which the requirement is referring are listed; that is, those records required in accordance with 25 TAC §289.201(d) of this title, 25 TAC §§289.202(nn)-(uu), and by license of certificate of registration condition. The subsection only requires records relevant to operations at an additional authorized use/storage site to be maintained at that site. The licensee/registrant should determine what records are relevant based upon the activities conducted at the additional site(s). The department made no change as a result of the comments.

Comment: Concerning subsection (xx)(1)(A)(iii), one commenter questioned why 250 rads (2.5 grays) is used instead of the unit "rems," since "rems" is the unit used in subsection (xx)(2)(A)(iii) and subsection (f)(1)(B)(ii).

Response: With doses in this high range, it is more appropriate to use the unit "rad" instead of "rem." The department made no change as a result of the comment.

Comment: Concerning subsection (zz), one commenter suggested deleting "registrant" from the requirement for submitting a planned special exposure report.

Response: The department deleted the words "or registrant."

Comment: Concerning subsection (ggg)(6), one commenter stated that this requirement is very useful and applauded the rulemaking effort.

Response: The department acknowledged the comment and made no change as a result of the comment.

Comment: Concerning subsection (ggg)(6), one commenter questioned if the records required by subsection (nn)(2) are to be transferred to the department after termination of the license/registration.

Response: The records are not to be transferred to the department after termination of the license/registration. The department made no change as a result of the comment.

Comment: Concerning subsection (ggg)(6), one commenter suggested simplifying the various recordkeeping time intervals, either to 3 or 5 years. The commenter further recommended that, since only one is 5 years, the interval be changed to 3 years. Alternately, if 5 years is that important for leakage/contamination of sealed sources, then it is probably also appropriate for each of the other sections.

Response: The recordkeeping intervals are varied based upon the intended purpose of the record and on inspection intervals. The department made no change as a result of the comment.

Comment: Concerning subsections (g)(1), (k)(1)(H), (r)(1), (kk), and (rr)(1) (G), a commenter noted that some cross-references appear to be incorrect.

Response: The department acknowledged the comment and corrected the cross-references accordingly to clarify the section.

Commenters included a representative from the University of Texas M.D. Anderson Cancer Center of Houston; Frank Malek and Associates of Montgomery; Richmond Imaging Associates of Houston; Texas A&M University of College Station; Baylor College of Medicine of Houston; the University of Texas System Office of Environmental Affairs of Austin; Shell Chemical Company of Houston; and one individual. The commenters were generally in favor of the proposal; however, they presented comments and suggestions for changes to the proposal as previously discussed.

## Texas Regulations for Control of Radiation

### • 25 TAC §289.113

The repeal is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with authority to adopt rules and guidelines relating to the control of radiation; and §12.001, which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 29, 1996.

TRD-9605921      Susan K. Steeg  
General Counsel  
Texas Department of Health

Effective date: May 20, 1996

Proposal publication date: December 26, 1995

For further information, please call: (512) 458-7236



## General

### • 25 TAC §289.202

The new section is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with authority to adopt rules and guidelines relating to the control of radiation; and §12.001, which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

#### *§289.202. Standards for Protection Against Radiation.*

##### (a) Purpose.

(1) This section establishes standards for protection against ionizing radiation resulting from activities conducted in accordance with licenses or certificates of registration issued by the agency. These rules are issued in accordance with the Texas Radiation Control Act.

(2) The rules in this section are designed to control the receipt, possession, use, and transfer of sources of radiation by any licensee or registrant so the total dose to an individual, including doses resulting from all sources of radiation other than background radiation, does not exceed the standards for protection against radiation prescribed in this section. However, nothing in this section shall be construed as limiting actions that may be necessary to protect health and safety in an emergency.

(b) Scope. Except as specifically provided in other sections of this chapter, this section applies to persons licensed or registered by the agency to receive, possess, use, or transfer sources of radiation. The limits in this section do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, or to voluntary participation in medical research programs.

(c) Definitions. The following words and terms when used in this section shall have the following meaning, unless the context clearly indicates otherwise.

(1) Annual limit on intake (ALI)—The derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by Reference Man that would result in a committed effective dose equivalent of 5 rems (0.05 sievert) or a committed dose equivalent of 50 rems (0.5 sievert) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Columns 1 and 2 of Table I of subsection (ggg)(2) of this section.

(2) Class-A classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which apply to a range of clearance half-times: for Class D, Days, of less than 10 days; for Class W, Weeks, from 10 to 100 days, and for Class Y, Years, of greater than 100 days. For purposes of this section, lung class and inhalation class are equivalent terms.

(3) Declared pregnant woman-A woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception.

(4) Derived air concentration (DAC)-The concentration of a given radionuclide in air that, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of 1 ALI. For purposes of this section, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Column 3 of Table I of subsection (ggg)(2) of this section.

(5) Derived air concentration-hour (DAC-hour)-The product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent ALI, equivalent to a committed effective dose equivalent of 5 rems (0.05 sievert).

(6) Dosimetry processor-A registrant that processes and evaluates personnel monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(7) Inhalation class (see definition for Class).

(8) Lung class (see definition for Class).

(9) Nonstochastic effect-A health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of this section, deterministic effect is an equivalent term.

(10) Planned special exposure-An infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(11) Quarter-A period of time equal to one-fourth of the year observed by the licensee or registrant, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(12) Reference man-A hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health employees to standardize results of experiments and to relate biological insult to a common base. A description of Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(13) Respiratory protective equipment-An apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(14) Sanitary sewerage-A system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(15) Stochastic effect-A health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of this section probabilistic effect is an equivalent term.

(16) Very high radiation area-An area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates. At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equivalent, sievert and rem.

(17) Weighting factor  $w_T$  for an organ or tissue (T) -The proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of  $w_T$  are:

Figure 1: 25 TAC §289.202(c)(17)

(d) Implementation.

(1) Any existing license or certificate of registration condition that is more restrictive than this section remains in force until there is an amendment or renewal of the license or registration.

(2) If a license or certificate of registration condition exempts a licensee or registrant from a provision of this section in effect on or before January 1, 1994, it also exempts the licensee or registrant from the corresponding provision of this section.

(3) If a license or registration condition cites provisions of this section in effect prior to January 1, 1994, that do not correspond to any provisions of this section, the license or registration condition remains in force until there is an amendment or renewal of the license or registration that modifies or removes this condition.

(e) Radiation protection programs.

(1) Each licensee or registrant shall develop, document, and implement a radiation protection program sufficient to ensure compliance with the provisions of this section. See subsection (mm) of this section for recordkeeping requirements relating to these programs.

(2) The licensee or registrant shall use, to the extent practicable, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonably achievable (ALARA).

(3) The licensee or registrant shall, at intervals not to exceed 12 months, ensure the radiation protection program content and implementation is reviewed.

(f) Occupational dose limits for adults.

(1) The licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures in accordance with subsection (k) of this section, to the following dose limits.

(A) An annual limit shall be the more limiting of:

(i) the total effective dose equivalent being equal to 5 rems (0.05 sievert); or

(ii) the sum of the deep dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 50 rems (0.5 sievert).

(B) The annual limits to the lens of the eye, to the skin, and to the extremities shall be:

(i) an eye dose equivalent of 15 rems (0.15 sievert); and

(ii) a shallow dose equivalent of 50 rems (0.5 sievert) to the skin or to any extremity.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime. See subsection (k)(1)(F)(i) and (ii) of this section.

(3) The assigned deep dose equivalent and shallow dose equivalent shall be for the portion of the body receiving the highest exposure.

(4) The deep dose equivalent, eye dose equivalent and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.

(5) When a protective apron is worn while working with fluoroscopic equipment used for clinical diagnostic or research purposes, the effective dose equivalent for external radiation shall be determined as follows.

(A) When only one individual monitoring device is used and it is located at the neck outside the protective apron, the reported deep dose equivalent shall be the effective dose equivalent for external radiation.

(B) When only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25% of the limit specified in paragraph (1) of this subsection, the reported deep dose equivalent value multiplied by 0.3 shall be the effective dose equivalent for external radiation.

(C) When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation shall be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

(6) Derived air concentration (DAC) and annual limit on intake (ALI) values are specified in Table I of subsection (ggg)(2) of this section and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits. See subsection (rr) of this section.

(7) Notwithstanding the annual dose limits, the licensee shall limit the soluble uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity. See footnote 3 of subsection (ggg)(2) of this section.

(8) The licensee or registrant shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person. See subsection (j)(4) of this section.

(g) Compliance with requirements for summation of external and internal doses.

(1) If the licensee is required to monitor in accordance with both subsection (q)(1) and (3) of this section, the licensee shall demonstrate compliance with the dose limits by summing external and internal doses. If the licensee or registrant is required to monitor only in accordance with subsection (q)(1) of this section or only in accordance with subsection (q)(3) of this section, then summation is not required to demonstrate compliance with the dose limits. The licensee may demonstrate compliance with the requirements for

summation of external and internal doses in accordance with paragraphs (2), (3) and (4) of this subsection. The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation, but are subject to separate limits.

(2) If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity:

(A) the sum of the fractions of the inhalation ALI for each radionuclide; or

(B) the total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000; or

(C) the sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors,  $w_T$ , and the committed dose equivalent,  $H_T,50$ , per unit intake is greater than 10% of the maximum weighted value of  $H_T,50$ , that is,  $w_T H_T,50$ , per unit intake for any organ or tissue.

(3) If the occupationally exposed individual receives an intake of radionuclides by oral ingestion greater than 10% of the applicable oral ALI, the licensee shall account for this intake and include it in demonstrating compliance with the limits.

(4) The licensee shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for hydrogen-3 and does not need to be evaluated or accounted for in accordance with this paragraph.

(h) Determination of external dose from airborne radioactive material.

(1) Licensees shall, when determining the dose from airborne radioactive material, include the contribution to the deep dose equivalent, eye dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See footnotes 1 and 2 of subsection (ggg)(2) of this section.

(2) Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

(i) Determination of internal exposure.

(1) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee shall, when required in accordance with subsection (q) of this section, take suitable and timely measurements of:

(A) concentrations of radioactive materials in air in work areas;

(B) quantities of radionuclides in the body;

(C) quantities of radionuclides excreted from the body; or

(D) combinations of these measurements.

(2) Unless respiratory protective equipment is used, as provided in subsection (x) of this section, or the assessment of intake is based on bioassays, the licensee shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.

(3) When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee may:

(A) use that information to calculate the committed effective dose equivalent, and, if used, the licensee shall document that information in the individual's record;

(B) upon prior approval of the agency, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and

(C) separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a given radionuclide to the committed effective dose equivalent. See subsection (ggg)(2) of this section.

(4) If the licensee chooses to assess intakes of Class Y material using the measurements given in paragraph (1)(A) or (B) of this subsection, the licensee may delay the recording and reporting of the assessments for periods up to 7 months, unless otherwise required by subsections (xx) or (yy) of this section. This delay permits the licensee to make additional measurements basic to the assessments.

(5) If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours shall be either:

(A) the sum of the ratios of the concentration to the appropriate DAC value, that is, D, W, or Y, from subsection (ggg)(2) of this section for each radionuclide in the mixture; or

(B) the ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.

(6) If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.

(7) When a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:

(A) the licensee uses the total activity of the mixture in demonstrating compliance with the dose limits in subsection (f) of this section and in complying with the monitoring requirements in subsection (q)(3) of this section;

(B) the concentration of any radionuclide disregarded is less than 10% of its DAC; and

(C) the sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30%.

(8) When determining the committed effective dose equivalent, the following information may be considered.

(A) In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of 1 ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 5 rems (0.05 sievert) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

(B) For an ALI and the associated DAC determined by the nonstochastic organ dose limit of 50 rems (0.5 sievert), the intake of radionuclides that would result in a committed effective dose equivalent of 5 rems (0.05 sievert), that is, the stochastic ALI, is listed in parentheses in Table I of subsection (ggg)(2) of this section. The licensee may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee uses the stochastic ALI, the licensee shall also demonstrate that the limit in subsection (q)(1)(A) of this section is met.

(j) Determination of occupational dose for the current year.

(1) For each individual who may enter the licensee's or registrant's restricted area and is likely to receive, in a year, an occupational dose requiring monitoring in accordance with subsection (q) of this section, the licensee or registrant shall determine the occupational radiation dose received during the current year.

(2) In complying with the requirements of paragraph (1) of this subsection, a licensee or registrant may:

(A) accept, as a record of the occupational dose that the individual received during the current year, TRC Form 21-2 from prior employers, or other clear and legible record, of all information required on that form and indicating any periods of time for which data are not available; or

(B) accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's prior employer(s) for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; or

(C) obtain reports of the individual's dose equivalent from prior employer(s) for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(3) The licensee or registrant shall record the exposure data for the current year, as required by paragraph (1) of this subsection, on TRC Form 21-3, or other clear and legible record, of all the information required on that form.

(4) If the licensee or registrant is unable to obtain a complete record of an individual's current occupational dose while employed by any other licensee or registrant, the licensee or registrant shall assume in establishing administrative controls in accordance with subsection (f)(8) of this section for the current year, that the allowable dose limit for the individual is reduced by 1.25 rems (12.5 millisieverts) for each quarter; or 416 millirems (4.16 millisieverts) for each month for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure.

(5) If an individual has incomplete (e.g., a lost or damaged personnel monitoring device) current occupational dose data for the current year and that individual is employed solely by the licensee or registrant during the current year, the licensee or registrant shall:

(A) assume that the allowable dose limit for the individual is reduced by 1.25 rems (12.5 millisieverts) for each quarter;

(B) assume that the allowable dose limit for the individual is reduced by 416 millirems (4.16 millisieverts) for each month; or

(C) assess an occupational dose for the individual during the period of missing data using surveys, radiation measurements, or other comparable data for the purpose of demonstrating compliance with the occupational dose limits.

(6) Administrative controls established in accordance with paragraph (4) of this subsection shall be documented and maintained for inspection by the agency. Occupational dose assessments made in accordance with paragraph (5) of this subsection and records of data used to make the assessment shall be maintained for inspection by the agency. The licensee or registrant shall retain the records in accordance with subsection (rr) of this section.

(k) Planned special exposures.

(1) A licensee may authorize an adult worker to receive doses in addition to and accounted for separately from the doses received under the limits specified in subsection (f) of this section provided that each of the following conditions is satisfied.

(A) The licensee authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the higher exposure are unavailable or impractical.

(B) The licensee and employer if the employer is not the licensee or registrant, specifically authorizes the planned special exposure, in writing, before the exposure occurs.

(C) Before a planned special exposure, the licensee ensures that each individual involved is:

(i) informed of the purpose of the planned operation;

(ii) informed of the estimated doses and associated potential risks and specific radiation levels or other conditions that might be involved in performing the task; and

(iii) instructed in the measures to be taken to keep the dose ALARA considering other risks that may be present.

(D) Prior to permitting an individual to participate in a planned special exposure, the licensee shall determine:

(i) the internal and external doses from all previous planned special exposures;

(ii) all doses in excess of the limits, including doses received during accidents and emergencies, received during the lifetime of the individual; and

(iii) all lifetime cumulative occupational radiation doses.

(E) In complying with the requirements of subparagraph (D)(iii) of this paragraph, a licensee may:

(i) accept, as the record of lifetime cumulative radiation dose, an up-to-date TRC Form 21-2 or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee; and

(ii) obtain reports of the individual's dose equivalent from prior employer(s) for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee, by telephone, telegram, facsimile, or letter. The licensee shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(F) Subject to subsection (f)(2) of this section, the licensee shall not authorize a planned special exposure that would cause an individual to receive a dose from all planned special exposures and all doses in excess of the limits to exceed:

(i) the numerical values of any of the dose limits in subsection (f) (1) of this section in any year; and

(ii) five times the annual dose limits in subsection (f)(1) of this section during the individual's lifetime.

(G) The licensee maintains records of the conduct of a planned special exposure in accordance with subsection (qq) of this section and submits a written report to the agency in accordance with subsection (zz) of this section.

(H) The licensee records the best estimate of the dose resulting from the planned special exposure in the individual's record and informs the individual, in writing, of the dose within 30 days from the date of the planned special exposure. The dose from planned special exposures shall not be considered in controlling future occupational dose of the individual in accordance with subsection (f)(1) but shall be included in evaluations required by subparagraphs (D) and (F) of this paragraph.

(I) The licensee shall record the exposure history, as required by subparagraph (D) of this paragraph, on TRC Form 21-2, or other clear and legible record, of all the information required on that form. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee obtains reports, the licensee shall use the dose shown in the report in preparing TRC Form 21-2 or equivalent.

(2) Planned special exposures are not applicable to registrants.

(1) Occupational dose limits for minors. The annual occupational dose limits for minors are 10% of the annual occupational dose limits specified for adult workers in subsection (f) of this section.

(m) Dose to an embryo/fetus.

(1) If a woman declares her pregnancy, the licensee or registrant shall ensure that the dose to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 0.5 rem (5 millisieverts). If a woman chooses not to declare pregnancy, the occupational dose limits specified in subsection (f)(1) of this section are applicable to the woman. See subsection (rr) of this section for recordkeeping requirements.

(2) The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in paragraph (1) of this subsection. The National Council on Radiation Protection and Measurements recommended in NCRP Report Number 91 "Recommendations on Limits for Exposure to Ionizing Radiation" (June 1, 1987) that no more than 0.05 rem (0.5 millisievert) to the embryo/fetus be received in any 1 month.

(3) The dose to an embryo/fetus shall be taken as:

(A) the dose to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman; and

(B) the dose that is most representative of the dose to the embryo/fetus from external radiation, that is, in the mother's lower torso region.

(i) If multiple measurements have not been made, assignment of the highest deep dose equivalent for the declared pregnant woman shall be the dose to the embryo/fetus.

(ii) If multiple measurements have been made, assignment of the deep dose equivalent for the declared pregnant woman from the individual monitoring device that is most representative of the dose to the embryo/fetus shall be the dose to the embryo/fetus. Assignment of the highest deep dose equivalent for the declared pregnant woman to the embryo/fetus is not required unless that dose is also the most representative deep dose equivalent for the region of the embryo/fetus.

(4) If by the time the woman declares pregnancy to the licensee or registrant, the dose to the embryo/fetus has exceeded 0.45 rem (4.5 millisieverts), the licensee or registrant shall be deemed to be in compliance with paragraph (1) of this subsection, if the additional dose to the embryo/fetus does not exceed 0.05 rem (0.5 millisievert) during the remainder of the pregnancy.

(n) Dose limits for individual members of the public.

(1) Each licensee or registrant shall conduct operations so that:

(A) except as provided in subparagraph (B) of this paragraph, the total effective dose equivalent to individual members of the public from the licensed and/or registered operation does not exceed 0.1 rem (1 millisievert) in a year, exclusive of the dose contribution from the licensee's disposal of radioactive material into sanitary sewerage in accordance with subsection (gg) of this section;

(B) the total effective dose equivalent to individual members of the public from exposure to radiation from radiation machines does not exceed 0.5 rem (5 millisieverts) in a year; and

(C) the dose in any unrestricted area from licensed and/or registered external sources does not exceed 0.002 rem (0.02 millisievert) in any 1 hour.

(2) If the licensee or registrant permits members of the public to have access to restricted areas, the limits for members of the public continue to apply to those individuals.

(3) A licensee or an applicant for a license may apply for prior agency authorization to operate up to an annual dose limit for an individual member of the public of 0.5 rem (5 millisieverts). This application shall include the following information:

(A) demonstration of the need for and the expected duration of operations in excess of the limit in paragraph (1) of this subsection;

(B) the licensee's program to assess and control dose within the 0.5 rem (5 millisieverts) annual limit; and

(C) the procedures to be followed to maintain the dose ALARA.

(4) In addition to the requirements of this section, a licensee subject to the provisions of the United States Environmental Protection Agency's (EPA) generally applicable environmental radiation standards in 40 Code of Federal Regulations (CFR), §190 shall comply with those requirements.

(5) The agency may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee may release in effluents in order to restrict the collective dose.

(o) Compliance with dose limits for individual members of the public.

(1) The licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted areas and radioactive materials in effluents released to unrestricted areas to demonstrate compliance with the dose limits for individual members of the public as required in subsection (n) of this section.

(2) A licensee or registrant shall show compliance with the annual dose limit in subsection (n) of this section by:

(A) demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

(B) demonstrating that:

(i) the annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Table II of subsection (ggg)(2) of this section; and

(ii) if an individual were continuously present in an unrestricted area, the dose from external sources of radiation would not exceed 0.002 rem (0.02 millisievert) in an hour and 0.05 rem (0.5 millisievert) in a year.

(3) Registrants exempt from personnel monitoring requirements in accordance with subsection (p)(4)-(5) of this section are exempt from the requirements of paragraphs (1) and (2) of this subsection.

(4) Upon approval from the agency, the licensee may adjust the effluent concentration values in Table II, of subsection (ggg)(2) of this section, for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as, aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.

(p) General surveys and monitoring.

(1) Each licensee or registrant shall make, or cause to be made, surveys that:

(A) are necessary for the licensee or registrant to comply with this section; and

(B) are necessary under the circumstances to evaluate:

(i) radiation levels;

(ii) concentrations or quantities of radioactive material; and

(iii) the potential radiological hazards that could be present.

(2) The licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements, for example, dose rate and effluent monitoring, are operable and calibrated:

(A) by a person licensed or registered by the agency, another Agreement State, a Licensing State, or the United States Nuclear Regulatory Commission (NRC) to perform such service;

(B) at intervals not to exceed 12 months unless a different time interval is specified in another section of this chapter;

(C) after each instrument or equipment repair;

(D) for the types of radiation used and at energies appropriate for use; and

(E) at an accuracy within 20% of the true radiation level.

(3) All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with subsection (f) of this section, with other applicable provisions of these rules, or with conditions specified in a license or certificate of registration, shall be processed and evaluated by a dosimetry processor:

(A) holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology;

(B) approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored; and

(C) holding a current certificate of registration from the agency authorizing dosimetry processing.

(4) Notwithstanding the requirements of subsection (q)(1) of this section, no personnel monitoring shall be required for personnel operating only minimal threat devices as specified in §289.201(q)(4) of this title (relating to General Provisions).

(5) Notwithstanding the requirements of subsection (q)(1) of this section, no personnel monitoring shall be required for personnel operating only dental radiographic systems for healing arts purposes.

(q) Conditions requiring individual monitoring of external and internal occupational dose. Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this section. As a minimum:

(1) each licensee or registrant shall monitor occupational exposure to radiation and shall supply and require the use of individual monitoring devices by:

(A) adults likely to receive, in 1 year from sources external to the body, a dose in excess of 10% of the limits in subsection (f)(1) of this section;

(B) minors and declared pregnant women likely to receive, in 1 year from sources external to the body, a dose in excess of 10% of any of the applicable limits in subsections (l) or (m) of this section; and

(C) individuals entering a high or very high radiation area;

(2) notwithstanding paragraph (1)(C) of this subsection, a licensee is exempt from supplying individual monitoring devices to healthcare personnel who may enter a high radiation area while providing patient care if:

(A) the personnel are not likely to receive, in 1 year from sources external to the body, a dose in excess of 10% of the limits in subsection (f) (1) of this section; and

(B) the licensee complies with the requirements of subsection (e)(2) of this section; and

(3) each licensee shall monitor, to determine compliance with subsection (i) of this section, the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

(A) adults likely to receive, in 1 year, an intake in excess of 10% of the applicable ALI in Columns 1 and 2 of Table I of subsection (ggg)(2) of this section; and

(B) minors and declared pregnant women likely to receive, in 1 year, a committed effective dose equivalent in excess of 0.05 rem (0.5 millisievert).

(r) Location and use of individual monitoring devices.

(1) Each licensee or registrant shall ensure that individuals who are required to monitor occupational doses in accordance with subsection (q)(l) of this section wear and use individual monitoring devices as follows.

(A) An individual monitoring device used for monitoring the dose to the whole body shall be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar).

(B) If an additional individual monitoring device is used for monitoring the dose to an embryo/fetus of a declared pregnant woman, in accordance with subsection (m)(1) of this section, it shall be located at the waist under any protective apron being worn by the woman.

(C) An individual monitoring device used for monitoring the eye dose equivalent, to demonstrate compliance with subsection (f)(1)(B)(i) of this section, shall be located at the neck (collar) or at a location closer to the eye, outside any protective apron being worn by the monitored individual.

(D) An individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with subsection (f)(1)(B)(ii) of this section, shall be worn on the extremity likely to receive the highest exposure. Each individual monitoring device, to the extent practicable, shall be oriented to measure the highest dose to the extremity being monitored.

(E) An individual monitoring device shall be assigned to and worn by only one individual.

(F) An individual monitoring device shall be worn for the period of time authorized by the dosimetry processor's certificate of registration or for no longer than 3 months, whichever is more restrictive.

(2) Each licensee or registrant shall ensure that individual monitoring devices are returned to the dosimetry processor for proper processing.

(3) Each licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device.

(s) Control of access to high radiation areas.

(1) The licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:

(A) a control device that, upon entry into the area, causes the level of radiation to be reduced below that level at which an individual might receive a deep dose equivalent of 0.1 rem (1 millisievert) in 1 hour at 30 centimeters from the source of radiation from any surface that the radiation penetrates;

(B) a control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or

(C) entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entry.

(2) In place of the controls required by paragraph (1) of this subsection for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.

(3) The licensee or registrant may apply to the agency for approval of alternative methods for controlling access to high radiation areas.

(4) The licensee or registrant shall establish the controls required by paragraphs (1) and (3) of this subsection in a way that does not prevent individuals from leaving a high radiation area.

(5) The licensee is not required to control each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the United States Department of Transportation (DOT) provided that:

(A) the packages do not remain in the area longer than 3 days; and

(B) the dose rate at 1 meter from the external surface of any package does not exceed 0.01 rem (0.1 millisievert) per hour.

(6) The licensee is not required to control entrance or access to rooms or other areas in hospitals solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who are taking the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the established limits in this section and to operate within the ALARA provisions of the licensee's radiation protection program.

(7) The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area as described in this subsection if the registrant has met all the specific requirements for access and control specified in other applicable sections of this chapter, such as, §289.115 of this title (relating to Radiation Safety

Requirements and Licensing and Registration Procedures for Industrial Radiography), §289.116 of this title (relating to Use of Radiation Machines in the Healing Arts and Veterinary Medicine), and §289.119 of this title (relating to Radiation Safety Requirements for Particle Accelerators).

(t) Control of access to very high radiation areas.

(1) In addition to the requirements in subsection (s) of this section, the licensee or registrant shall institute measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 500 rads (5 grays) or more in 1 hour at 1 meter from a source of radiation or any surface through which the radiation penetrates at this level. This requirement does not apply to rooms or areas in which diagnostic x-ray systems are the only source of radiation, or to non-self-shielded irradiators.

(2) The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area as described in paragraph (1) of this subsection if the registrant has met all the specific requirements for access and control specified in other applicable parts of this chapter, such as, §289.115 of this title, §289.116 of this title, and §289.119 of this title.

(u) Control of access to very high radiation areas for irradiators.

(1) This subsection applies to licensees with sources of radiation in non-self-shielded irradiators. This subsection does not apply to sources of radiation that are used in teletherapy, in industrial radiography, or in completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.

(2) Each area in which there may exist radiation levels in excess of 500 rads (5 grays) in 1 hour at 1 meter from a source of radiation that is used to irradiate materials shall meet the following requirements.

(A) Each entrance or access point shall be equipped with entry control devices that:

(i) function automatically to prevent any individual from inadvertently entering a very high radiation area;

(ii) permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 0.1 rem (1 millisievert) in 1 hour; and

(iii) prevent operation of the source of radiation if it would produce radiation levels in the area that could result in a deep dose equivalent to an individual in excess of 0.1 rem (1 millisievert) in 1 hour.

(B) Additional control devices shall be provided so that, upon failure of the entry control devices to function as required by subparagraph (A) of this paragraph:

(i) the radiation level within the area, from the source of radiation, is reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 0.1 rem (1 millisievert) in 1 hour; and

(ii) conspicuous visible and audible alarm signals are generated to make an individual attempting to enter the area aware of the hazard and at least one other authorized individual, who



is physically present, familiar with the activity, and prepared to render or summon assistance, aware of the failure of the entry control devices.

(C) The licensee shall provide control devices so that, upon failure or removal of physical radiation barriers other than the sealed source's shielded storage container:

(i) the radiation level from the source of radiation is reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 0.1 rem (1 millisievert) in 1 hour; and

(ii) conspicuous visible and audible alarm signals are generated to make potentially affected individuals aware of the hazard and the licensee or at least one other individual, who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.

(D) When the shield for stored sealed sources is a liquid, the licensee shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.

(E) Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances, need not meet the requirements of subparagraphs (C) and (D) of this paragraph.

(F) Each area shall be equipped with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source of radiation can be put into operation and in time for any individual in the area to operate a clearly identified control device, which must be installed in the area and which can prevent the source of radiation from being put into operation.

(G) Each area shall be controlled by use of such administrative procedures and such devices as are necessary to ensure that the area is cleared of personnel prior to each use of the source of radiation.

(H) Each area shall be checked by a radiation measurement to ensure that, prior to the first individual's entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area is below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 0.1 rem (1 millisievert) in 1 hour.

(I) The entry control devices required in subparagraph (A) of this paragraph shall be tested for proper functioning. See subsection (uu) of this section for recordkeeping requirements.

(i) Testing shall be conducted prior to initial operation with the source of radiation on any day, unless operations were continued uninterrupted from the previous day.

(ii) Testing shall be conducted prior to resumption of operation of the source of radiation after any unintentional interruption.

(iii) The licensee shall submit and adhere to a schedule for periodic tests of the entry control and warning systems.

(J) The licensee shall not conduct operations, other than those necessary to place the source of radiation in safe condition or to effect repairs on controls, unless control devices are functioning properly.

(K) Entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by individuals, shall be controlled by such devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by any individual through these portals. Exit portals for irradiated materials shall be equipped to detect and signal the presence of any loose radioactive material that is carried toward such an exit and automatically to prevent loose radioactive material from being carried out of the area.

(3) Licensees or applicants for licenses for sources of radiation within the purview of paragraph (2) of this subsection that will be used in a variety of positions or in locations, such as open fields or forests, which make it impracticable to comply with certain requirements of paragraph (2) of this subsection, such as those for the automatic control of radiation levels, may apply to the Agency for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to those specified in paragraph (2) of this subsection. At least one of the alternative measures shall include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such sources of radiation are used.

(4) The entry control devices required by paragraphs (2) and (3) of this subsection shall be established in such a way that no individual will be prevented from leaving the area.

(v) Use of process or other engineering controls. The licensee shall use, to the extent practicable, process or other engineering controls, such as containment or ventilation, to control the concentrations of radioactive material in air.

(w) Use of other controls. When it is not practicable to apply process or other engineering controls to control the concentrations of radioactive material in air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent ALARA, increase monitoring and limit intakes by one or more of the following means:

- (1) control of access;
- (2) limitation of exposure times;
- (3) use of respiratory protection equipment; or
- (4) other controls.

(x) Use of individual respiratory protection equipment.

(1) If the licensee uses respiratory protection equipment to limit intakes in accordance with subsection (w) of this section.

(A) Except as provided in subparagraph (B) of this paragraph, the licensee shall use only respiratory protection equipment that is tested and certified or had certification extended by the National Institute for Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA).

(B) If the licensee wishes to use equipment that has not been tested or certified by the NIOSH and the MSHA, or has not had certification extended by the NIOSH and the MSHA, or for which there is no schedule for testing or certification, the licensee shall submit an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

(C) The licensee shall implement and maintain a respiratory protection program that includes:

(i) air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures;

(ii) surveys and bioassays, as appropriate, to evaluate actual intakes;

(iii) testing of respirators for operability immediately prior to each use;

(iv) written procedures regarding selection, fitting, issuance, maintenance, and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and recordkeeping; and

(v) determination by a physician prior to initial fitting of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment.

(D) The licensee shall issue a written policy statement on respirator usage covering:

(i) the use of process or other engineering controls, instead of respirators;

(ii) the routine, nonroutine, and emergency use of respirators; and

(iii) the length of periods of respirator use and relief from respirator use.

(E) The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(F) The licensee shall use respiratory protection equipment within the equipment manufacturer's expressed limitations for type and mode of use and shall provide proper visual, communication, and other special capabilities, such as adequate skin protection, when needed.

(2) When estimating exposure of individuals to airborne radioactive materials, the licensee may make allowance for respiratory protection equipment used to limit intakes in accordance with subsection (w) of this section, provided that the following conditions, in addition to those in paragraph (1) of this subsection, are satisfied.

(A) The licensee selects respiratory protection equipment that provides a protection factor, specified in subsection (ggg)(1) of this section, greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in Column 3 of Table I of subsection (ggg)(2) of this section. However, if the selection of respiratory protection equipment with a protection factor greater than the peak concentration is inconsistent with the goal specified in subsection (w) of this section of keeping the total effective dose equivalent ALARA, the licensee may select respiratory protection equipment with a lower protection factor provided that such a selection would result in a total effective dose equivalent that is ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than initially estimated, the corrected value shall be used; if the exposure is later found to be less than initially estimated, the corrected value may be used.

(B) The licensee shall obtain authorization from the agency before assigning respiratory protection factors in excess of those specified in subsection (ggg)(1) of this section. The agency may authorize a licensee to use higher protection factors on receipt of an application that:

(i) describes the situation for which a need exists for higher protection factors; and

(ii) demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

(3) In an emergency, the licensee shall use as emergency equipment only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by the NIOSH and the MSHA.

(4) The licensee shall notify the agency in writing at least 30 days before the date that respiratory protection equipment is first used in accordance with either paragraphs (1) or (2) of this subsection.

(y) Security and control of licensed or registered sources of radiation.

(1) The licensee shall secure radioactive material from unauthorized removal or access.

(2) The licensee shall maintain constant surveillance, using devices and/or administrative procedures to prevent unauthorized use of radioactive material that is in an unrestricted area and that is not in storage.

(3) The registrant shall secure radiation machines from unauthorized removal.

(4) The registrant shall use devices and/or administrative procedures to prevent unauthorized use of radiation machines.

(z) Caution signs.

(1) Unless otherwise authorized by the agency, the standard radiation symbol prescribed shall use the colors magenta, or purple, or black on yellow background. The standard radiation symbol prescribed is the three-bladed design as follows:

Figure 2: 25 TAC §289.202(z)(1)

(A) the cross-hatched area of the symbol is to be magenta, or purple, or black; and

(B) the background of the symbol is to be yellow.

(2) Notwithstanding the requirements of paragraph (1) of this subsection, licensees or registrants are authorized to label sources, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols and without a color requirement.

(aa) Posting requirements.

(1) The licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."

(2) The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."

(3) The licensee or registrant shall post each very high radiation area with a conspicuous sign or signs bearing the radiation symbol and words "GRAVE DANGER, VERY HIGH RADIATION

AREA." If the very high radiation area involves medical treatment of patients, the licensee or registrant may omit the word "GRAVE" from the sign or signs.

(4) The licensee shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA."

(5) The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding 10 times the quantity of such material specified in subsection (ggg)(3) of this section with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)."

(bb) Exceptions to posting requirements.

(1) A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than 8 hours, if each of the following conditions is met:

(A) the sources of radiation are constantly attended during these periods by an individual who takes the precautions necessary to prevent the exposure of individuals to sources of radiation in excess of the limits established in this section; and

(B) the area or room is subject to the licensee's or registrant's control.

(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs in accordance with subsection (aa) of this section provided that the patient could be released from confinement in accordance with §289.252(f)(3) of this title (relating to Licensing of Radioactive Material).

(3) A room or area is not required to be posted with a caution sign because of the presence of a sealed source(s) provided the radiation level at 30 centimeters from the surface of the sealed source container(s) or housing(s) does not exceed 0.005 rem (0.05 millisievert) per hour.

(cc) Labeling containers and radiation machines.

(1) The licensee shall ensure that each container of licensed material bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label shall also provide information, such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment, to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

(2) Each licensee shall, prior to removal or disposal of empty uncontaminated containers to unrestricted areas, remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.

(3) Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner that cautions individuals that radiation is produced when it is energized. This label shall be affixed in a clearly visible location on the face of the control unit.

(dd) Exemptions to labeling requirements. A licensee is not required to label:

(1) containers holding licensed material in quantities less than the quantities listed in subsection (ggg)(3) of this section;

(2) containers holding licensed material in concentrations less than those specified in Table III of subsection (ggg)(2) of this section;

(3) containers attended by an individual who takes the precautions necessary to prevent the exposure of individuals in excess of the limits established by this section;

(4) containers when they are in transport and packaged and labeled in accordance with the rules of the DOT (labeling of packages containing radioactive materials is required by the DOT if the amount and type of radioactive material exceeds the limits for an excepted quantity or article as defined and limited by DOT regulations 49 CFR 173.403(m) and (w) and 173.424);

(5) containers that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record. Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells. The record shall be retained as long as the containers are in use for the purpose indicated on the record; or

(6) installed manufacturing or process equipment, such as piping and tanks.

(ee) Procedures for receiving and opening packages.

(1) Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in §289.201(b) and (q)(5) of this title, shall make arrangements to receive:

(A) the package when the carrier offers it for delivery; or

(B) the notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.

(2) Each licensee shall:

(A) monitor the external surfaces of a labeled package, labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in DOT regulations 49 CFR 172.403 and 172.436-440, for radioactive contamination unless the package contains only radioactive material in the form of gas or in special form as defined in §289.201(b) of this title; and

(B) monitor the external surfaces of a labeled package, labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in DOT regulations 49 CFR 172.403 and 172.436-440, for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, as defined in §289.201(b) and (q)(5) of this title; and

(C) monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.

(3) The licensee shall perform the monitoring required by paragraph (2) of this subsection as soon as practicable after receipt of the package, but not later than 3 hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours. If a package is received after working hours, the package shall be monitored no later than 3 hours from the beginning of the next working day. If the licensee discovers there is evidence of degradation of package integrity, such as a package that is crushed, wet, or damaged, the package shall be surveyed immediately.

(4) The licensee shall immediately notify the final delivery carrier and, by telephone and telegram, mailgram, or facsimile, the agency when removable radioactive surface contamination or external radiation levels exceed the limits established in subparagraphs (A) and (B) of this paragraph.

(A) Limits for removable radioactive surface contamination levels.

(i) The level of removable radioactive contamination on the external surfaces of each package offered for shipment shall be ALARA. The level of removable radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the removable contamination levels. Except as provided in clause (iii) of this subparagraph, the amount of radioactivity measured on any single wiping material, when averaged over the surface wiped, must not exceed the limits given in clause (ii) of this subparagraph at any time during transport. If other methods are used, the detection efficiency of the method used must be taken into account and in no case may the removable contamination on the external surfaces of the package exceed 10 times the limits listed in clause (ii) of this subparagraph.

(ii) Removable external radioactive contamination wipe limits are as follows.  
Figure 3: 25 TAC §289.202(ee)(4)(ii)

(iii) In the case of packages transported as exclusive use shipments by rail or highway only, the removable radioactive contamination at any time during transport must not exceed 10 times the levels prescribed in clause (ii) of this subparagraph. The levels at the beginning of transport must not exceed the levels in clause (ii) of this subparagraph.

(B) Limits for external radiation levels.

(i) External radiation levels around the package and around the vehicle, if applicable, will not exceed 200 millirems/hr (2 mSv/hr) at any point on the external surface of the package at any time during transportation. The transport index shall not exceed 10.

(ii) For a package transported in exclusive use by rail, highway or water, radiation levels external to the package may exceed the limits specified in clause (i) of this subparagraph but shall not exceed any of the following:

(I) 200 millirems/hr (2 mSv/hr) on the accessible external surface of the package unless the following conditions are met, in which case the limit is 1,000 millirems/hr (10 mSv/hr):

(-a-) the shipment is made in a closed transport vehicle;

(-b-) provisions are made to secure the package so that its position within the vehicle remains fixed during transportation; and

(-c-) there are no loading or unloading operations between the beginning and end of the transportation;

(II) 200 millirems/hr (2 mSv/hr) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load (or enclosure, if used), and on the lower external surface of the vehicle (a flat-bed style vehicle with a personnel barrier shall have radiation levels

determined at vertical planes. If no personnel barrier, the package cannot exceed 200 millirems/hr (2 mSv/hr) at the surface.);

(III) 10 millirems/hr (0.1 mSv/h) at any point 2 meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point 2 meters from the vertical planes projected from the outer edges of the vehicle; and

(IV) 2 millirems/hr (0.02 mSv/hr) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with 22.12 of Texas Regulations for Control of Radiation (TRCR) Part 22 as adopted by reference in §289.114 of this title (relating to Notices, Instructions, and Reports to Workers; Inspections).

(5) Each licensee shall:

(A) establish, maintain, and retain written procedures for safely opening packages in which radioactive material is received; and

(B) ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.

(6) Licensees transferring special form sources in vehicles owned or operated by the licensee to and from a work site are exempt from the contamination monitoring requirements of paragraph (2) of this subsection, but are not exempt from the monitoring requirement in paragraph (2) of this subsection for measuring radiation levels that ensures that the source is still properly lodged in its shield.

(ff) General requirements for waste management.

(1) Unless otherwise exempted, a licensee shall discharge, treat, or decay licensed material or transfer waste for disposal only:

(A) by transfer to an authorized recipient as provided in subsection (jj) of this section or in §289.127 of this title (relating to Licensing of Naturally Occurring Radioactive Material (NORM)), §289.252 of this title (relating to Licensing of Radioactive Material), or §289.254 of this title (relating to Licensing of Radioactive Waste Processing and Storage Facilities), or to the United States Department of Energy (DOE);

(B) by decay in storage with prior approval from the agency;

(C) by release in effluents within the limits in subsection (n) of this section; or

(D) as authorized in accordance with subsections (gg) and (hh) of this section.

(2) A person shall be specifically licensed to receive waste containing licensed material from other persons for:

(A) treatment prior to disposal;

(B) treatment by incineration;

(C) decay in storage;

(D) disposal at an authorized land disposal facility; or

(E) storage until transferred to a storage or disposal facility authorized to receive the waste.

(gg) Discharge by release into sanitary sewerage.

(1) A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

(A) the material is readily soluble, or is readily dispersible biological material, in water;

(B) the quantity of licensed radioactive material that the licensee releases into the sewer in 1 month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in Table III of subsection (ggg)(2) of this section; and

(C) if more than one radionuclide is released, the following additional conditions must also be satisfied:

(i) the fraction of the limit in Table III of subsection (ggg)(2) of this section represented by discharges into sanitary sewerage determined by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in Table III of subsection (ggg)(2) of this section; and

(ii) the sum of the fractions for each radionuclide required by clause (i) of this subparagraph does not exceed unity; and

(D) the total quantity of licensed radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 5 curies (185 gigabecquerels) of hydrogen-3, 1 curie (37 gigabecquerels) of carbon-14, and 1 curie (37 gigabecquerels) of all other radioactive materials combined.

(2) Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in paragraph (1) of this subsection.

(hh) Treatment by incineration. A licensee may treat licensed material by incineration only in the form and concentration specified in subsection (fff)(1) of this section or as authorized by the agency.

(ii) Discharge by release into septic tanks. No licensee shall discharge radioactive material into a septic tank system except as specifically approved by the agency.

(jj) Transfer for disposal and manifests.

(1) The requirements of this subsection and subsection (ggg)(4) of this section are designed to control transfers of low-level radioactive waste intended for disposal at a licensed low-level radioactive waste disposal facility, establish a manifest tracking system, and supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Each shipment of radioactive waste designated for disposal at a licensed low-level radioactive waste disposal facility shall be accompanied by a shipment manifest as specified in subsection (ggg)(4)(A) of this section.

(3) Each shipment manifest shall include a certification by the waste generator as specified in subsection (ggg)(4)(B) of this section.

(4) Each person involved in the transfer of waste for disposal including the waste generator, waste collector, and waste processor, shall comply with the requirements specified in subsection (ggg)(4)(C) of this section.

(5) Each shipment of waste to a licensed land disposal facility in Texas shall be inspected by the agency prior to shipment. The waste shipper shall notify the agency no less than 72 hours prior to the scheduled shipment of the intent to transport waste to the licensed land disposal facility.

(kk) Compliance with environmental and health protection regulations. Nothing in subsections (ff), (gg), (hh), or (jj) of this section relieves the licensee from complying with other applicable federal, state, and local regulations governing any other toxic or hazardous properties of materials that may be disposed of according to subsections (ff), (gg), (hh), or (jj) of this section.

(ll) General provisions for records.

(1) Each licensee or registrant shall use the SI units becquerel, gray, sievert, and coulomb per kilogram, or the special units curie, rad, rem, and roentgen, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this section. Disintegrations per minute may be indicated on records of surveys performed to determine compliance with subsection (ggg)(7) of this section.

(2) The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this section, such as, total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, eye dose equivalent, deep dose equivalent, or committed effective dose equivalent.

(3) Records required in accordance with §289.201(d) of this title, and subsections (mm), (nn), (oo), (tt), and (uu) of this section shall include the date and the identification of individual(s) making the record, and, as applicable, a unique identification of survey instrument(s) used, and an exact description of the location of the survey. Records of receipt, transfer, and disposal of sources of radiation shall uniquely identify the source of radiation.

(4) Copies of records required in accordance with §289.201(d) of this title, and subsections (mm) through (uu) of this section, and by license or certificate of registration condition that are relevant to operations at an additional authorized use/storage site shall be maintained at that site in addition to the main site specified on a license or certificate of registration.

(mm) Records of radiation protection programs.

(1) Each licensee or registrant shall maintain records of the radiation protection program, including:

(A) the provisions of the program; and

(B) audits and other reviews of program content and implementation.

(2) The licensee or registrant shall retain the records required by paragraph (1)(A) of this subsection until the agency terminates each pertinent license or registration requiring the record. The licensee or registrant shall retain the records required by paragraph (1)(B) of this subsection for 3 years after the record is made.

(nn) Records of surveys.

(1) Each licensee or registrant shall maintain records showing the results of surveys and calibrations required by subsections (p) and (ee)(2) of this section. The licensee or registrant shall retain these records for 3 years after the record is made.

(2) The licensee or registrant shall retain each of the following records until the agency terminates each pertinent license or registration requiring the record:

(A) the results of surveys to determine the dose from external sources of radiation used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents; and

(B) results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment of internal dose; and

(C) results of air sampling, surveys, and bioassays required in accordance with subsection (x)(1)(C)(i) and (ii) of this section; and

(D) results of measurements and calculations used to evaluate the release of radioactive effluents to the environment.

(oo) Records of tests for leakage or contamination of sealed sources. Records of tests for leakage or contamination of sealed sources required by §289.201(g) of this title shall be kept in units of becquerel or microcurie and retained for inspection by the agency for 5 years after the records are made.

(pp) Records of lifetime cumulative occupational radiation dose. The licensee shall retain the records of lifetime cumulative occupational radiation dose as specified in subsection (k) of this section on TRC Form 21-2 or equivalent until the agency terminates each pertinent license requiring this record. The licensee shall retain records used in preparing TRC Form 21-2 or equivalent for 3 years after the record is made.

(qq) Records of planned special exposures.

(1) For each use of the provisions of subsection (k) of this section for planned special exposures, the licensee shall maintain records that describe:

(A) the exceptional circumstances requiring the use of a planned special exposure;

(B) the name of the management official who authorized the planned special exposure and a copy of the signed authorization;

(C) what actions were necessary;

(D) why the actions were necessary;

(E) what precautions were taken to assure that doses were maintained ALARA;

(F) what individual and collective doses were expected to result; and

(G) the doses actually received in the planned special exposure.

(2) The licensee shall retain the records until the agency terminates each pertinent license requiring these records.

(rr) Records of individual monitoring results.

(1) Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring was required in accordance with subsection (q) of this section, and records of doses received during planned special exposures, accidents, and emergency conditions. Assessments of dose equivalent and records

made using units in effect before January 1, 1994, need not be changed. These records shall include, when applicable:

(A) the deep dose equivalent to the whole body, eye dose equivalent, shallow dose equivalent to the skin, and shallow dose equivalent to the extremities;

(B) the estimated intake of radionuclides, see subsection (g) of this section;

(C) the committed effective dose equivalent assigned to the intake of radionuclides;

(D) the specific information used to calculate the committed effective dose equivalent in accordance with subsection (i)(3) of this section;

(E) the total effective dose equivalent when required by subsection (g) of this section;

(F) the total of the deep dose equivalent and the committed dose to the organ receiving the highest total dose; and

(G) the data used to make occupational dose assessments in accordance with subsection (j)(5) of this section.

(2) The licensee or registrant shall make entries of the records specified in paragraph (1) of this subsection at intervals not to exceed 1 year and within 60 days of the end of the year.

(3) The licensee or registrant shall maintain the records specified in paragraph (1) of this subsection on TRC Form 21-3, in accordance with the instructions for TRC Form 21-3, or in clear and legible records containing all the information required by TRC Form 21-3.

(4) The licensee or registrant shall maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, shall also be kept on file, but may be maintained separately from the dose records.

(5) The licensee or registrant shall retain each required form or record until the agency terminates each pertinent license or registration requiring the record. The licensee or registrant shall retain records used in preparing TRC Form 21-3 or equivalent for 3 years after the record is made.

(ss) Records of dose to individual members of the public.

(1) Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public. See subsection (n) of this section.

(2) The licensee or registrant shall retain the records required by paragraph (1) of this subsection until the agency terminates each pertinent license or registration requiring the record.

(tt) Records of discharge, treatment, or transfer for disposal.

(1) Each licensee shall maintain records of the discharge or treatment of licensed materials made in accordance with subsection (gg) and (hh) of this section and of transfers for disposal made in accordance with subsection (jj) of this section.

(2) The licensee shall retain the records required by paragraph (1) of this subsection until the agency terminates each pertinent license requiring the record.

(uu) Records of testing entry control devices for very high radiation areas.

(1) Each licensee or registrant shall maintain records of tests made in accordance with subsection (u)(2)(I) of this section on entry control devices for very high radiation areas. These records must include the date, time, and results of each such test of function.

(2) The licensee or registrant shall retain the records required by paragraph (1) of this subsection for 3 years after the record is made.

(vv) Form of records. Each record required by this section shall be legible throughout the specified retention period. The record shall be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period or the record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.

(ww) Reports of stolen, lost, or missing licensed or registered sources of radiation.

(1) Each licensee or registrant shall report to the agency by telephone as follows:

(A) immediately after its occurrence becomes known to the licensee, stolen, lost, or missing licensed radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in subsection (ggg)(3) of this section, under such circumstances that it appears to the licensee that an exposure could result to individuals in unrestricted areas; or

(B) within 30 days after its occurrence becomes known to the licensee, lost, stolen, or missing licensed radioactive material in an aggregate quantity greater than 10 times the quantity specified in subsection (ggg)(3) of this section that is still missing.

(C) immediately after its occurrence becomes known to the registrant, a stolen, lost, or missing radiation machine.

(2) Each licensee or registrant required to make a report in accordance with paragraph (1) of this subsection shall, within 30 days after making the telephone report, make a written report to the agency setting forth the following information:

(A) a description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model and serial number, type and maximum energy of radiation emitted;

(B) a description of the circumstances under which the loss or theft occurred;

(C) a statement of disposition, or probable disposition, of the licensed or registered source of radiation involved;

(D) exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;

(E) actions that have been taken, or will be taken, to recover the source of radiation; and

(F) procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.

(3) Subsequent to filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of such information.

(4) The licensee or registrant shall prepare any report filed with the agency in accordance with this subsection so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.

(xx) Notification of incidents.

(1) Notwithstanding other requirements for notification, each licensee or registrant shall immediately report each event involving a source of radiation possessed by the licensee or registrant that may have caused or threatens to cause:

(A) an individual to receive:

(i) a total effective dose equivalent of 25 rems (0.25 sievert) or more;

(ii) an eye dose equivalent of 75 rems (0.75 sievert) or more; or

(iii) a shallow dose equivalent to the skin or extremities or a total organ dose equivalent of 250 rads (2.5 grays) or more; or

(B) the release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the occupational ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures.

(2) Each licensee or registrant shall, within 24 hours of discovery of the event, report to the agency each event involving loss of control of a licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause:

(A) an individual to receive, in a period of 24 hours:

(i) a total effective dose equivalent exceeding 5 rems (0.05 sievert);

(ii) an eye dose equivalent exceeding 15 rems (0.15 sievert); or

(iii) a shallow dose equivalent to the skin or extremities or a total organ dose equivalent exceeding 50 rems (0.5 sievert); or

(B) the release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures.

(3) Licensees or registrants shall make the initial notification reports required by paragraphs (1) and (2) of this subsection by telephone to the agency and shall confirm the initial notification report within 24 hours by telegram, mailgram, or facsimile to the agency.

(4) The licensee or registrant shall prepare each report filed with the agency in accordance with this section so that names

of individuals who have received exposure to sources of radiation are stated in a separate and detachable portion of the report.

(5) The provisions of this section do not apply to doses that result from planned special exposures, provided such doses are within the limits for planned special exposures and are reported in accordance with section (zz) of this section.

(yy) Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the limits.

(1) In addition to the notification required by subsection (xx) of this section, each licensee or registrant shall submit a written report within 30 days after learning of any of the following occurrences:

(A) incidents for which notification is required by subsection (xx) of this section;

(B) doses in excess of any of the following:

(i) the occupational dose limits for adults in subsection (f) of this section;

(ii) the occupational dose limits for a minor in subsection (l) of this section;

(iii) the limits for an embryo/fetus of a declared pregnant woman in subsection (m) of this section;

(iv) the limits for an individual member of the public in subsection (n) of this section; or

(v) any applicable limit in the license or registration;

(C) levels of radiation or concentrations of radioactive material in:

(i) a restricted area in excess of applicable limits in the license or registration; or

(ii) an unrestricted area in excess of 10 times the applicable limit set forth in this section or in the license or registration, whether or not involving exposure of any individual in excess of the limits in subsection (n) of this section; or

(D) for licensees subject to the provisions of the EPA's generally applicable environmental radiation standards in 40 CFR 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those requirements.

(2) Each report required by paragraph (1) of this subsection shall describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

(A) estimates of each individual's dose;

(B) the levels of radiation and concentrations of radioactive material involved;

(C) the cause of the elevated exposures, dose rates, or concentrations; and

(D) corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license or registration conditions.

(3) Each report filed in accordance with paragraph (1) of this subsection shall include for each individual exposed: the name, social security number, and date of birth. With respect to the limit for the embryo/fetus in subsection (m) of this section, the identifiers should be those of the declared pregnant woman. The report shall be prepared so that this information is stated in a separate and detachable portion of the report.

(4) All licensees or registrants who make reports in accordance with paragraph (1) of this subsection shall submit the report in writing to the agency.

(zz) Reports of planned special exposures. The licensee shall submit a written report to the agency within 30 days following any planned special exposure conducted in accordance with subsection (k) of this section, informing the Agency that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by subsection (qq) of this section.

(aaa) Notifications and reports to individuals.

(1) Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in §289.114 of this title.

(2) When a licensee or registrant is required in accordance with subsection (yy) of this section to report to the agency any exposure of an individual to radiation or radioactive material, the licensee or registrant shall also notify the individual. Such notice shall be transmitted at a time not later than the transmittal to the agency, and shall comply with the provisions of 22.13(a) of TRCR Part 22 as adopted by reference in §289.114 of this title.

(bbb) Reports of leaking or contaminated sealed sources. The licensee shall immediately notify the agency if the test for leakage or contamination required in accordance with §289.201(g) of this title indicates a sealed source is leaking or contaminated. A written report of a leaking or contaminated source shall be submitted to the agency within 5 days. The report shall include the equipment involved, the test results and the corrective action taken.

(ccc) Vacating premises. Each licensee, registrant, or person possessing non-exempt sources of radiation shall, no less than 30 days before vacating or relinquishing possession or control of premises, notify the agency, in writing, of the intent to vacate. The licensee or person possessing non-exempt radioactive material shall decommission the premises to a degree consistent with subsequent use as an unrestricted area and in accordance with the requirements of subsections (ddd) and (eee) of this section.

(ddd) Soil contamination limits.

(1) No licensee shall possess, receive, use, or transfer radioactive material in such a manner as to cause contamination of soil in unrestricted areas, to the extent that the contamination exceeds, on a dry weight basis, the concentration limits specified in:

(A) subsection (ggg)(9) of this section; or

(B) the effluent concentrations in Table III of subsection (ggg)(2) of this section, with the units changed from microcuries per milliliter to microcuries per gram, for radionuclides not specified in subsection (ggg)(9) of this section or paragraph (3) of this subsection.

(2) Where combinations of radionuclides are involved, the sum of the ratios between the concentrations present and the limits specified in paragraph (1) of this subsection shall not exceed one.

(3) Except for the requirements in §289.127 of this title and notwithstanding the limits imposed by paragraph (1) of this



subsection, the concentration of radium-226 or radium-228 in soil averaged over any 100 square meters shall not exceed the background level by more than:

(A) 5 pCi/gm, averaged over the first 15 centimeters of soil below the surface; and

(B) 15 pCi/gm, averaged over 15 centimeter thick layers of soil more than 15 centimeters below the surface.

(eee) Surface contamination limits for facilities and equipment. Prior to vacating any facility or releasing areas or equipment for unrestricted use, each licensee shall ensure that radioactive contamination has been removed to levels as low as reasonably achievable. In no case shall the licensee vacate a facility or release areas or equipment for unrestricted use until radioactive surface contamination levels are below the limits specified in subsection (ggg) (7) of this section.

(fff) Exemption of specific wastes.

(1) A licensee may discard the following licensed material without regard to its radioactivity:

(A) 0.05 microcurie (1.85 kilobecquerels), or less, of hydrogen-3, carbon-14, or iodine-125 per gram of medium used for liquid scintillation counting or *in vitro* clinical or *in vitro* laboratory testing; and

(B) 0.05 microcurie (1.85 kilobecquerels), or less, of hydrogen-3, carbon-14, or iodine-125, per gram of animal tissue, averaged over the weight of the entire animal.

(2) A licensee shall not discard tissue in accordance with paragraph (1) (B) of this subsection in a manner that would permit its use either as food for humans or as animal feed.

(3) The licensee shall maintain records in accordance with subsection (tt) of this section.

(4) Any licensee may, upon agency approval of procedures required in paragraph (6) of this subsection, discard licensed material included in subsection (ggg)(8) of this section, provided that it does not exceed the concentration and total curie limits contained therein, in a Type I municipal solid waste site as defined in the Municipal Solid Waste Regulations of the authorized regulatory agency (31 TAC Chapter 330), unless such licensed material also contains hazardous waste, as defined in Section 3(15) of the Solid Waste Disposal Act, Health and Safety Code, Chapter 361. Any licensed material included in subsection (ggg)(8) of this section and which is a hazardous waste as defined in the Solid Waste Disposal Act may be discarded at a facility authorized to manage hazardous waste by the authorized regulatory agency.

(5) Each licensee who discards material described in paragraphs (1) or (4) of this subsection shall:

(A) make surveys adequate to assure that the limits of paragraphs (1) or (4) of this subsection are not exceeded; and

(B) remove or otherwise obliterate or obscure all labels, tags, or other markings that would indicate that the material or its contents is radioactive.

(6) Prior to authorizations in accordance with paragraph (4) of this subsection, a licensee shall submit procedures to the agency for:

(A) the physical delivery of the material to the disposal site;

(B) surveys to be performed for compliance with paragraph (5)(A) of this subsection;

(C) maintaining secure packaging during transportation to the site; and

(D) maintaining records of any discards made under paragraph (4) of this subsection.

(7) Nothing in this section relieves the licensee of maintaining records showing the receipt, transfer, and discard of such radioactive material as specified in §289.201(d) of this title.

(8) Nothing in this section relieves the licensee from complying with other applicable federal, state, and local regulations governing any other toxic or hazardous property of these materials.

(9) Licensed material discarded under this section is exempt from the requirements of §289.252(t) of this title.

(ggg) Appendices.

(1) Protection factors for respirators. The following table contains protection factors for respirators:  
Figure 4: 25 TAC §289.202(ggg)(1)

(2) Annual limits on intake (ALI) and derived air concentrations (DAC) of radionuclides for occupational exposure; effluent concentrations; concentrations for release to sanitary sewerage.

(A) Introduction.

(i) For each radionuclide, Table I of subparagraph (F) of this paragraph indicates the chemical form that is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1 micron, and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks, or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than 10 days, for W from 10 to 100 days, and for Y greater than 100 days. Table II of subparagraph (F) of this paragraph provides concentration limits for airborne and liquid effluents released to the general environment. Table III of subparagraph (F) of this paragraph provides concentration limits for discharges to sanitary sewerage.

(ii) The values in Tables I, II, and III of subparagraph (F) of this paragraph are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of  $6 \times 10^{-2}$  or 0.06, 6E+2 represents  $6 \times 10^2$  or 600, and 6E+0 represents  $6 \times 10^0$  or 6.

(B) Occupational values.

(i) Note that the columns in Table I of subparagraph (F) of this paragraph captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC," are applicable to occupational exposure to radioactive material.

(ii) The ALIs in subparagraph (F) of this paragraph are the annual intakes of given radionuclide by "Reference Man" that would result in either a committed effective dose equivalent of 5 rems (0.05 sievert), stochastic ALI, or a committed dose equivalent of 50 rems (0.5 sievert) to an organ or tissue, non-stochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep dose equivalent to the whole body of 5 rems (0.05 sievert). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor,  $w_T$ . This

weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue,  $T$ , to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of  $w_T$  are listed under the definition of "weighting factor" in subsection (c) of this section. The non-stochastic ALIs were derived to avoid non-stochastic effects, such as prompt damage to tissue or reduction in organ function.

(iii) A value of  $w_T = 0.06$  is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract; stomach, small intestine, upper large intestine, and lower large intestine, are to be treated as four separate organs.

(iv) The dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent, but are subject to limits that must be met separately.

(v) When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the non-stochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used as follows:

(I) LLI wall = lower large intestine wall;

(II) St. wall = stomach wall;

(III) Blad wall = bladder wall; and

(IV) Bone surf= bone surface.

(vi)

Figure 5: 25 TAC §289.202(ggg)(2)(B)(vi)

(vii) The dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent, but are subject to limits that must be met separately.

(viii) The DAC values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

Figure 6: 25 TAC §289.202(ggg)(2)(B)(viii)

(ix) The DAC values relate to one of two modes of exposure: either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

(x) The ALI and DAC values include contributions to exposure by the single radionuclide named and any ingrowth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides should be treated by the general method appropriate for mixtures.

(xi) The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See subsection (g) of this section. When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide, such as, Class D, Class W, or Class Y, the exposure may be evaluated as if it were a mixture of different

radionuclides.

(xii) It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

#### (C) Effluent concentrations.

(i) The columns in Table II of subparagraph (F) of this paragraph captioned "Effluents," "Air," and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of subsection (o) of this section. The concentration values given in Columns 1 and 2 of Table II of subparagraph (F) of this paragraph are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce a total effective dose equivalent of 0.05 rem (0.5 millisievert).

(ii) Consideration of non-stochastic limits has not been included in deriving the air and water effluent concentration limits because non-stochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the non-stochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II of subparagraph (F) of this paragraph. For this reason, the DAC and airborne effluent limits are not always proportional as they were in the previous radiation protection standards.

(iii) The air concentration values listed in Column I of Table II of subparagraph (F) of this paragraph were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by  $2.4 \times 10^9$ , relating the inhalation ALI to the DAC, as explained in subparagraph (B)(viii) of this paragraph, and then divided by a factor of 300. The factor of 300 includes the following components:

(I) a factor of 50 to relate the 5 rems (0.05 sievert) annual occupational dose limit to the 0.1 rem limit for members of the public;

(II) a factor of 3 to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and

(III) a factor of 2 to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

(iv) For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Column 3 of Table I of subparagraph (F) of this paragraph was divided by 219. The factor of 219 is composed of a factor of 50, as described in clause (iii) of this subparagraph, and a factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year). Note that an additional factor of 2 for age considerations is not warranted in the submersion case.

(v) The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by  $7.3 \times 10^7$ . The factor of  $7.3 \times 10^7$  (ml) includes the following components:

(I) the factors of 50 and 2 described in clause (iii) of this subparagraph; and

(II) a factor of  $7.3 \times 10^5$  (ml) which is the annual water intake of "Reference Man."

(vi) Note 2 of subparagraph (F) of this paragraph provides groupings of radionuclides that are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations, and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present either from knowledge of the radionuclide composition of the source or from actual measurements.

(D) Releases to sewers. The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in subsection (gg) of this section. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by  $7.3 \times 10^6$  (ml). The factor of  $7.3 \times 10^6$  (ml) is composed of a factor of  $7.3 \times 10^5$  (ml), the annual water intake by "Reference Man," and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a "Reference Man" during a year, would result in a committed effective dose equivalent of 0.5 rem.

(E) List of elements.

Figure 7: 25 TAC §289.202(ggg)(2)(E)

(F) Tables—Values for annual limits. The following tables contain values for annual limits on intake (ALI) and derived air concentrations (DAC) of radionuclides for occupational exposure; effluent concentrations; concentrations for release to sanitary sewerage:

Figure 8: 25 TAC §289.202(ggg)(2)(F)

(3) Quantities of licensed material requiring labeling. The following tables contain quantities of licensed material requiring labeling:

Figure 9: 25 TAC §289.202(ggg)(3)

(4) Requirements for transfer of low-level radioactive waste for disposal at land disposal facilities and manifests.

(A) Manifest. The shipment manifest shall contain the name, address, and telephone number of the person generating the waste. The manifest shall also include the name, address, and telephone number or the name and U.S. Environmental Protection Agency hazardous waste identification number of the person transporting the waste to the land disposal facility. The manifest shall also indicate: a physical description of the waste, the volume, radionuclide identity and quantity, the total radioactivity, and the principal chemical form. The solidification agent shall be specified. Waste containing more than 0.1% chelating agents by weight shall be identified and the weight percentage of the chelating agent estimated. Wastes classified as Class A, Class B, or Class C in paragraph (5)(A) of this subsection shall be clearly identified as such in the manifest. The total quantity of the radionuclides hydrogen-3, carbon-14, technetium-99, and iodine-129 shall be shown. The manifest required by this subparagraph may be shipping papers used to meet DOT or EPA regulations or requirements of the receiver, provided all the required information is included. Copies of manifests required by this paragraph may be legible carbon copies or legible photocopies.

(B) Certification. The waste generator shall include in the shipment manifest a certification that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the

applicable regulations of the DOT and the agency. An authorized representative of the waste generator shall sign and date the manifest.

(C) Control and tracking.

(i) Any radioactive waste generator who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in subclauses (I)-(IX) of this clause. Any radioactive waste generator who transfers waste to a licensed waste processor who treats or repackages waste shall comply with the requirements of subclauses (IV)-(IX) of this clause. A licensee shall:

(I) prepare all wastes so that the waste is classified according to paragraph (5)(A) of this subsection and meets the waste characteristics requirements in paragraph (5)(B) of this subsection;

(II) label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with paragraph (5)(A) of this subsection;

(III) conduct a quality control program to ensure compliance with paragraph (5)(A) and (B) of this subsection; the program shall include management evaluation of audits;

(IV) prepare shipping manifests to meet the requirements of subparagraphs (A) and (B) of this paragraph;

(V) forward a copy of the manifest to the intended recipient, at the time of shipment, or deliver to a collector at the time the waste is collected, obtaining acknowledgment of receipt in the form of a signed copy of the manifest or equivalent documentation from the collector;

(VI) include one copy of the manifest with the shipment;

(VII) retain a copy of the manifest and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by §289.252(p) of this title;

(VIII) for any shipments or any portion of a shipment for which acknowledgment of receipt has not been received within the times set forth in this section, conduct an investigation in clause (v) of this subparagraph; and

(IX) forward a legible copy of the manifest to the agency at the time of transfer or shipment.

(ii) Any waste collector licensee who handles only prepackaged waste shall:

(I) acknowledge receipt of the waste from the generator within one week of receipt by returning a signed copy of the manifest or equivalent documentation;

(II) prepare a new manifest to reflect consolidated shipments; the new manifest shall serve as a listing or index for the detailed generator manifests. Copies of the generator manifests shall be a part of the new manifest. The waste collector may prepare a new manifest without attaching the generator manifests, provided the new manifest contains for each package the informa-

tion specified in subparagraph (A) of this paragraph. The collector licensee shall certify that nothing has been done to the waste that would invalidate the generator's certification;

(III) forward a copy of the new manifest to the land disposal facility operator at the time of shipment;

(IV) include the new manifest with the shipment to the disposal site;

(V) retain a copy of the manifest and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by §289.252(p) of this title, and retain information from generator manifest until disposition is authorized by the agency;

(VI) for any shipments or any portion of a shipment for which acknowledgment of receipt is not received within the times set forth in this paragraph, conduct an investigation in accordance with clause (v) of this subparagraph; and

(VII) forward a legible copy of the manifest to the agency no later than the date of shipment of the waste to the land disposal facility.

(iii) Any licensed waste processor who treats or repackages wastes shall:

(I) acknowledge receipt of the waste from the generator within one week of receipt by returning a signed copy of the manifest or equivalent documenta- tion;

(II) prepare a new manifest that meets the requirements of subparagraphs (A) and (B) of this paragraph. Preparation of the new manifest reflects that the processor is responsible for the waste;

(III) prepare all wastes so that the waste is classified according to paragraph (5)(A) of this subsection and meets the waste characteristics requirements in paragraph (5)(B) of this subsection;

(IV) label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with paragraph (5)(A) and (C) of this subsection;

(V) conduct a quality control program to ensure compliance with paragraph (5)(A) and (B) of this subsection. The program shall include manage- ment evaluation of audits;

(VI) forward a copy of the new manifest to the disposal site operator or waste collector at the time of shipment, or deliver to a collector at the time the waste is collected, obtaining acknowledgment of receipt in the form of a signed copy of the manifest or equivalent documentation by the collector;

(VII) include the new manifest with the shipment;

(VIII) retain copies of original manifests and new manifests and documentation of acknowledgment of receipt as the record of transfer of licensed material required by §289.252(p) of this title;

(IX) for any shipment or portion of a shipment for which acknowledgment is not received within the times set forth in this section, conduct an investigation in accordance with clause (v) of this subparagraph; and

(X) forward a legible copy of the manifest to the agency no later than the date of the shipment to the land disposal facility.

(iv) The land disposal facility operator shall:

(I) acknowledge receipt of the waste within one week of receipt by returning a signed copy of the manifest or equivalent documentation to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. The returned copy of the manifest or equivalent documentation shall indicate any discrepancies between materials listed on the manifest and materials received;

(II) maintain copies of all completed manifests or equivalent documentation until the agency authorizes their disposition; and

(III) notify the shipper, that is, the generator, the collector, or processor, and the agency when any shipment or portion of a shipment has not arrived within 60 days after the advance manifest was received.

(v) Any shipment or portion of a shipment for which acknowledgment is not received within the times set forth in this section shall:

(I) be investigated by the shipper if the shipper has not received notification or receipt within 20 days after transfer; and

(II) be traced and reported. The investigation shall include tracing the shipment and filing a report with the agency. Each licensee who conducts a trace investigation shall file a written report with the agency within 2 weeks of completion of the investigation.

(5) Classification and characteristics of low-level radioactive waste.

(A) Classification of radioactive waste for land disposal.

(i) Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radionuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.

(ii) Classes of waste.

(I) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical

form and characteristics of Class A waste must meet the minimum requirements set forth in subparagraph (B)(i) of this paragraph. If Class A waste also meets the stability requirements set forth in subparagraph (B)(ii) of this paragraph, it is not necessary to segregate the waste for disposal.

(II) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in subparagraph (B) of this paragraph.

(III) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in subparagraph (B) of this paragraph.

(iii) Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in subclause (V) of this clause, classification shall be determined as follows.

(I) If the concentration does not exceed 0.1 times the value in subclause (V) of this clause, the waste is Class A.

(II) If the concentration exceeds 0.1 times the value in Table I, but does not exceed the value in subclause (V) of this clause, the waste is Class C.

(III) If the concentration exceeds the value in subclause (V) of this clause, the waste is not generally acceptable for land disposal.

(IV) For wastes containing mixtures of radionuclides listed in subclause (V) of this clause, the total concentration shall be determined by the sum of fractions rule described in clause (vii) of this subparagraph.

(V) Classification table for long-lived radionuclides.

Figure 10: 25 TAC §289.202(ggg)(5)(A)(iii)(V)

(iv) Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in clause (iii)(V) of this subparagraph, classification shall be determined based on the concentrations shown in subclause (VI) of this clause. However, as specified in clause (vi) of this subparagraph, if radioactive waste does not contain any nuclides listed in either clause (iii)(V) of this subparagraph or subclause (VI) of this clause, it is Class A.

(I) If the concentration does not exceed the value in Column 1 of subclause (VI) of this clause, the waste is Class A.

(II) If the concentration exceeds the value in Column 1 of subclause (VI) of this clause but does not exceed the value in Column 2 of subclause (VI) of this clause, the waste is Class B.

(III) If the concentration exceeds the value in Column 2 of subclause (VI) of this clause but does not exceed the value in Column 3 of subclause (VI) of this clause, the waste is Class C.

(IV) If the concentration exceeds the value in Column 3 of subclause (VI) of this clause, the waste is not generally acceptable for near-surface disposal.

(V) For wastes containing mixtures of the radionuclides listed in subclause (VI) of this clause, the total concentration shall be determined by the sum of fractions rule described in clause (vii) of this subparagraph.

(VI) Classification table for short-lived radionuclides.

Figure 11: 25 TAC §289.202(ggg)(5)(A)(iv)(VI)

(v) Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in clause (iii)(V) of this subparagraph and some of which are listed in clause (iv)(VI) of this subparagraph, classification shall be determined as follows:

(I) If the concentration of a radionuclide listed in clause (iii)(V) of this subparagraph is less than 0.1 times the value listed in clause (iii)(V) of this subparagraph, the class shall be that determined by the concentration of radionuclides listed in clause (iv)(VI) of this subparagraph.

(II) If the concentration of a radionuclide listed in clause (iii)(V) of this subparagraph exceeds 0.1 times the value listed in clause (iii)(V) of this subparagraph, but does not exceed the value listed in clause (iii)(V) of this subparagraph, the waste shall be Class C, provided the concentration of radionuclides listed in clause (iv)(VI) of this subparagraph does not exceed the value shown in Column 3 of clause (iv)(VI) of this subparagraph.

(vi) Classification of wastes with radionuclides other than those listed in clauses (iii)(V) and (iv)(VI) of this subparagraph. If the waste does not contain any radionuclides listed in either clauses (iii)(V) and (iv)(VI) of this subparagraph, it is Class A.

(vii) The sum of the fractions rule for mixtures of radionuclides. For determining classification for waste that contains a mixture of radionuclides, it is necessary to determine the sum of fractions by dividing each radionuclide's concentration by the appropriate limit and adding the resulting values. The appropriate limits must all be taken from the same column of the same table. The sum of the fractions for the column must be less than 1.0 if the waste class is to be determined by that column. Example: A waste contains Sr-90 in a concentration of 50 Ci/m<sup>3</sup> (1.85 TBq/m<sup>3</sup>) and Cs-137 in a concentration of 22 Ci/m<sup>3</sup> (814 Gbq/m<sup>3</sup>). Since the concentrations both exceed the values in Column 1 of clause (iv)(VI) of this subparagraph, they must be compared to Column 2 values. For Sr-90 fraction,  $50/150 = 0.33$ , for Cs-137 fraction,  $22/44 = 0.5$ ; the sum of the fractions = 0.83. Since the sum is less than 1.0, the waste is Class B.

(viii) Determination of concentrations in wastes. The concentration of a radionuclide may be determined by indirect methods such as use of scaling factors, which relate the inferred concentration of one radionuclide to another that is measured, or radionuclide material accountability, if there is reasonable assurance that the indirect methods can be correlated with actual measurements. The concentration of a radionuclide may be averaged over the volume of the waste, or weight of the waste if the units are expressed as nanocurie (becquerel) per gram.

(B) Radioactive waste characteristics.

(i) The following are minimum requirements for all classes of waste and are intended to facilitate handling and provide protection of health and safety of personnel at the disposal site.

(I) Wastes shall be packaged in conformance with the conditions of the license issued to the site operator to which the waste will be shipped. Where the conditions of the site license are more restrictive than the provisions of this section, the site license conditions shall govern.

(II) Wastes shall not be packaged for disposal in cardboard or fiberboard boxes.

(III) Liquid waste shall be packaged in sufficient absorbent material to absorb twice the volume of the liquid.

(IV) Solid waste containing liquid shall contain as little free-standing and non-corrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1.0% of the volume.

(V) Waste shall not be readily capable of detonation or of explosive decomposition or reaction at normal pressures and temperatures, or of explosive reaction with water.

(VI) Waste shall not contain, or be capable of generating, quantities of toxic gases, vapors, or fumes harmful to persons transporting, handling, or disposing of the waste. This does not apply to radioactive gaseous waste packaged in accordance with subclause (VIII) of this clause.

(VII) Waste must not be pyrophoric. Pyrophoric materials contained in wastes shall be treated, prepared, and packaged to be nonflammable.

(VIII) Wastes in a gaseous form shall be packaged at an absolute pressure that does not exceed 1.5 atmospheres at 20 degrees Celsius. Total activity shall not exceed 100 curies (3.7 terabecquerels) per container.

(IX) Wastes containing hazardous, biological, pathogenic, or infectious material shall be treated to reduce to the maximum extent practicable the potential hazard from the non-radiological materials.

(ii) The following requirements are intended to provide stability of the waste. Stability is intended to ensure that the waste does not degrade and affect overall stability of the site through slumping, collapse, or other failure of the disposal unit and thereby lead to water infiltration. Stability is also a factor in limiting exposure to an inadvertent intruder, since it provides a recognizable and nondispersible waste.

(I) Waste shall have structural stability. A structurally stable waste form will generally maintain its physical dimensions and its form, under the expected disposal conditions such as weight of overburden and compaction equipment, the presence of moisture, and microbial activity, and internal factors such as radiation effects and chemical changes. Structural stability can be provided by the waste form itself, processing the waste to a stable form, or placing the waste in a disposal container or structure that provides stability after disposal.

(II) Notwithstanding the provisions in clause (i)(III) and (IV) of this subparagraph, liquid wastes, or wastes containing liquid, shall be converted into a form that contains as little free-standing and non-corrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1.0% of the volume of the waste when the waste is in a disposal container designed to ensure stability, or 0.5% of the volume of the waste for waste processed to a stable form.

(III) Void spaces within the waste and between the waste and its package shall be reduced to the extent practicable.

(C) Labeling. Each package of waste shall be clearly labeled to identify whether it is Class A, Class B, or Class C waste, in accordance with subparagraph (A) of this paragraph.

(6) Time requirements for record keeping.  
Figure 12: 25 TAC §289.202(ggg)(6)

(7) Acceptable surface contamination levels.  
Figure 13: 25 TAC §289.202(ggg)(7)

(8) Concentration and activity limits of nuclides for disposal in a Type I municipal solid waste site or a hazardous waste facility (for use in subsection (fff) of this section).  
Figure 14: 25 TAC §289.202(ggg)(8)

(9) Soil contamination limits for selected radionuclides (for use in subsection (ddd) of this section).  
Figure 15: 25 TAC §289.202(ggg)(9)

(10) The following, TRC Form 21-2, is to be used to document cumulative occupational exposure history:  
Figure 16: 25 TAC §289.202(ggg)(10)

(11) The following, TRC Form 21-3, is to be used to document occupational exposure record for a monitoring period:  
Figure 17: 25 TAC §289.202(ggg)(11)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 29, 1996.

TRD-9605923 Susan K. Steeg  
General Counsel  
Texas Department of Health

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For further information, please call: (512) 458-7236



## • 25 TAC §289.201

The Texas Department of Health (department) adopts an amendment to §289. 201, concerning general provisions of radiation control, with changes to the proposed text as published in the February 16, 1996, issue of the *Texas Register* (21 TexReg 1238).

The amendment specifies the criteria the department will consider in determining exemptions to the section and increases the inspection intervals for dental and veterinary facilities and assemblers/consultants of x-ray machines. The amendment also deletes the requirements for routine inspection of mammography systems because these requirements are now included in 25 TAC §289.230 (relating to Certification of Mammography Systems). References to the Texas Open Records Act have been revised to reflect the correct title of that statute.

Following is a summary of changes that were made to the section as a result of comments received.

In subsection (c)(1), the words, "or exceptions" were deleted because they were redundant of the word "exemption". Concerning subsection (c)(1), to clarify the intent of the section, subparagraph (B) was deleted; subparagraph (C) was renumbered and reworded to read, "economic

considerations in relation to benefits to the public health and safety, and ..."; subparagraph (D) was renumbered and the words, "or public health and safety" were added. Concerning subsection (q)(3), the grouping of categories listed as "Industrial" was renamed "Other" because assembler/consultants and other services could be other than industrial. In addition to these changes, other minor grammatical changes were made throughout the section.

The following are the public comments made concerning the proposed section and the department's responses to those comments.

Comment: Concerning subsection (q)(3), one commenter stated that increasing the inspection interval for dental facilities does not seem prudent in conjunction with the changes being drafted in Texas Regulations for Control of Radiation (TRCR) Part 32 as adopted by reference in 25 TAC §289.116 (relating to Use of Radiation Machines in the Healing Arts and Veterinary Medicine). A physicist is explicitly not required to evaluate dental facilities according to the latest draft of 32.22 of TRCR Part 32. The commenter expressed that relaxation of inspection intervals would further dilute the remaining professional oversight of equipment viability.

Response: The proposed changes in the inspection intervals are based upon department inspection data concerning the average number of health-related violations per inspection per category. Recent data has shown a decrease in health-related violations, thereby justifying an extended interval. Should the average number of health-related violations increase in the future, the inspection intervals will be adjusted to reflect that fluctuation. The department made no change as a result of the comment.

Comment: Concerning subsection (q)(3), a commenter noted that facilities are separated between medical/educational and industrial, and that consultants are listed under industrial facilities. The commenter questioned whether consultants working in the medical area only should be registered.

Response: The section is intended to apply to all consultants, whether working exclusively in industrial or medical/educational settings. The department changed the section heading from "Industrial" to "Other" in order to clarify the section.

Comment: Concerning subsection (q)(3), a commenter stated that the proposed change that increases the inspection intervals for dental facilities is a positive step to reflect the improvements in technology and training in the last several years.

Response: The department acknowledged the comment and made no change as a result of the comment.

Commenters included a representative from Scott and White Clinic of Temple; Frank Malek and Associates of Montgomery; Texas Dental Association of Austin; Fuji Medical Systems U.S.A., Inc. of Stamford, Connecticut; and two individuals. The commenters were generally in favor of the proposal; however, they presented comments and suggestions for changes to the proposal as previously discussed.

The amendment is adopted under the Health and Safety Code, Chapter 401, which provides the Texas Board of Health with authority to adopt rules and guidelines relating to the control of radiation; and §12.001, which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

#### §289.201. General Provisions.

(a)-(b) (No change.)

(c) Exemptions.

(1) General provision. The agency may, upon application therefor or upon its own initiative, grant exemptions from the requirements of this chapter as it determines will not result in undue hazard to public health and safety or property. In determining such exemptions, the agency will consider:

(A) state of technology;

(B) economic considerations in relation to benefits to the public health and safety; and

(C) other societal, socioeconomic, or public health and safety considerations.

(2)-(3) (No change.)

(d) (No change.)

(e) Inspections.

(1)-(3) (No change.)

(4) Training for agency inspectors of electronic products.

(A) The agency will conduct inspections of medical, podiatric medical, dental, veterinary, and chiropractic electronic products in a manner designed to cause as little disruption of a medical, podiatric medical, dental, veterinary, or chiropractic practice as is practicable.

(B) A person who inspects medical, podiatric medical, dental, veterinary, or chiropractic electronic products will have training in the design and uses of the products.

(C) A person performing inspections of electronic products for the uses described in subparagraph (A) of this paragraph will receive training specified in subsection (q)(6) of this section.

(f)-(m) (No change.)

(n) Open records.

(1) Subject to the limitations provided in the Texas Public Information Act, Government Code, Chapter 552, all information and data collected, assembled, or maintained by the agency are public records open to inspection and copying during regular office hours.

(2) Any person who submits written information or data to the agency and requests that the information be considered confidential, privileged, or otherwise not available to the public under the Texas Public Information Act, shall justify such request in writing, including statutes and cases where applicable, addressed to the agency.

(A) Documents containing information that is claimed to be an exception to the Texas Public Information Act shall be marked to indicate that fact. Markings shall be placed on the document on origination or submission.

(i) (No change.)

(ii) The following wording shall be placed at the bottom of the front cover and title page, or first page of text if there is no front cover or title page:  
FIGURE 1: 25 TAC §289.201(n)(A)(ii)

(B) The agency requests, whenever possible, that all information submitted under the claim of an exception to the Texas Public Information Act be extracted from the main body of the application and submitted as a separate annex or appendix to the application.

(C) (No change.)

(3) Whether information falls within one of the exceptions to the Texas Public Information Act shall be determined by the agency. The Office of General Counsel will be queried as to whether or not there has been a previous determination that the information falls within one of the exceptions to the Texas Public Information

Act. If there has been no previous determination and the agency believes that the information falls within one of the exceptions, an opinion of the Attorney General will be requested. If the agency agrees in writing to the request, the information shall not be open for public inspection unless the Attorney General's office subsequently determines that it is not an exception.

(4) Requests for information.

(A) (No change.)

(B) The agency will ascertain whether the information may be released or whether it falls within an exception to the Texas Public Information Act.

(i) The agency may take a reasonable period of time to determine whether information falls within one of the exceptions to the Texas Public Information Act.

(ii) (No change.)

(C) (No change.)

(o)-(p) (No change.)

(q) Appendices.

(1)-(2) (No change.)

(3) Routine inspection intervals for registrants.

FIGURE 2: 25 TAC §289.201(q)(3)

(4)-(6) (No change.)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 29, 1996.

TRD-9605922 Susan K. Steeg  
General Counsel  
Texas Department of Health

Effective date: May 20, 1996

Proposal publication date: February 16, 1996

For further information, please call: (512) 458-7236

## Part II. Texas Department of Mental Health and Mental Retardation

### Chapter 409. Medicaid Programs

#### Subchapter J. Reimbursement for Services in Institutions for Mental Diseases (IMD)

##### • 25 TAC §409.374, §409.375

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts amendments to §409.374 and §409.375, concerning reimbursement for services in institutions for mental diseases (IMD). Section 409.374 is adopted with changes to the proposed text as published in the February 2, 1996, issue of the *Texas Register* (21 TexReg 749). Section 409.375 is adopted without changes and will not be republished.

The adopted amendments to Chapter 409, Subchapter J, incorporate prior and continued stay authorization procedures with the department's Office of Medicaid Administration for the delivery of IMD services and the quantifying of the provider eligibility requirement of a consistent historical pattern of accepting persons involuntarily committed for inpatient mental health services.

Language in §409.374 is changed to explicitly state that prior authorizations will occur within seven calendar days of the individual's receipt of IMD services for which a claim is submitted. Language is also changed

to reflect the credentials of the authorizing reviewer as being a registered nurse or a licensed physician. Additional language is changed regarding the date the amendments become effective. Language also clarifies when requests for reauthorization must be submitted and the length of time an authorization is valid.

A public hearing was held on February 16, 1996, with no oral or written testimony presented. Written comment was received from the Superintendent of Kerrville State Hospital and one private citizen.

Written comment was received from one individual who supported the addition of the requirement for services to meet the patient's mental and psychosocial well-being. The commenter also indicated that it was very important that services be monitored by a medical review team outside TDMHMR.

The department responds that recent initiatives have established a clear separation of service authority and service provider responsibilities within TDMHMR. Medical review inspections are an authority responsibility. While inspections are accomplished internally by TDMHMR, the department maintains an arms'-length approach in its relationship with TDMHMR providers. It should also be noted that providers of IMD services are subject to several external reviews that include Medicare certification by the Texas Department of Health, certification by the Joint Commission of Accreditation of Healthcare Organizations, as well as federal audit by the Health Care Financing Administration.

The commenter characterized inspections conducted on an annual basis as inadequate.

The department responds that §409.375(c) provides that inspection frequency will occur at an interval decided upon by the department but will occur no less frequently than annually. The department reserves the authority to conduct inspections at a frequency it determines necessary to fulfill its responsibilities. Other reviews such as Medicare certification by the Texas Department of Health, certification by the Joint Commission of Accreditation of Healthcare Organizations, and federal audits by the Health Care Financing Administration occur at intervals established by their respective agency policies.

Another commenter stated that the department was incorrect in its determination that there will be no economic cost to persons who are required to comply with the amended sections. The commenter expressed concern that there will be an increased workload and a corresponding need to increase the number of staff in the provider's utilization review and reimbursement departments.

The department responds that because only data required for Medicare certification are being requested, the department anticipates that the impact on the facilities' workload would be minimal and the economic cost negligible.

The commenter requested clarification regarding the requirement that the request for initial authorization be submitted to the department within seven calendar days of the determination of need for IMD services.

The department responds that the language regarding initial authorization for IMD services, as described in §409.374(8), does require clarification. The department will amend the proposal to indicate that prior authorization will be obtained within seven days of the individual's receipt of IMD services for which a claim is to be submitted.

The commenter inquired as to the maximum number of days which will be authorized for both the initial and continued stay authorization.

The department responds that the maximum length of time for the initial and subsequent continued stay authorizations will be based on the needs of the individual, but in no case will the period exceed 30 days as described in §409.375(8).

The commenter asserted that the rule should state the qualifications/credentials of the authorizing reviewer.

The department agrees that the qualifications and credentials of the authorizing reviewer should be specified in the rule and §409.374(8) has been revised to reflect that either a registered nurse or a physician will conduct the prior and continued stay authorizations.

The amendments are adopted under the Texas Health and Safety Code, §532. 015, which provides the Texas Department of Mental Health and Mental Retardation Board with broad rule making au-



thority, and under the provisions of the Texas Civil Statutes, Article 4413(502), §16, which provide the Texas Health and Human Services Commission with the authority to administer federal medical assistance funds.

**§409.374. Eligible Population.** Reimbursement for IMD services is limited to individuals:

- (1) who are age 65 years or older;
- (2) who have one or more mental diseases;
- (3) who have no acceptable alternate placement as determined by the individual's treatment team;
- (4) who are eligible for participation in the Texas Medicaid program;
- (5) who are not eligible for medical compensation from other payment sources;
- (6) who have been certified by a licensed physician to need inpatient hospitalization for the care and treatment of a mental disease;
- (7) who meet all other federal, state and local regulations applicable to admission to a mental hospital; and
- (8) for whom the department has authorized IMD services based on medical necessity. Effective June 1, 1996, request for initial authorization must be submitted to the department's Office of Medicaid Administration within seven calendar days of the first day a claim is submitted for reimbursement of IMD services. Authorization for continued stay is valid for up to 30 calendar days. Request for reauthorization of continued stay must be submitted seven calendar days prior to the end date of the initial and all subsequent authorizations. For persons currently receiving IMD services, admitted prior to June 1, 1996, authorization will be granted until July 1, 1996. Requests for reauthorization of continued stay for these persons must also be submitted seven calendar days prior to the end date of the authorization. Authorizations will be determined by a registered nurse or a licensed physician.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 1, 1996.

TRD-9605988      Ann Utley  
Chairman, Texas MHMR Board  
Texas Department of Mental Health and Mental  
Retardation

Effective date: June 1, 1996

Proposal publication date: February 2, 1996

For further information, please call: (512) 206-4516

## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 3. Life, Accident and Health Insurance and Annuities

The Commissioner of Insurance adopts an amendment to §3.5302 and new §3.5502, concerning joint credit accident and health insurance. Section 3.5502 is adopted with changes to the proposed text as published in the October 31, 1995 issue of the *Texas Register* (20 TexReg 8965). Section 3.5302 is adopted without changes and will not be republished.

The adopted sections will result in the additional availability of credit disability coverage which can be written on two individuals who are jointly responsible for the repayment of a debt. Today's families increasingly rely on two incomes to provide for basic needs and most

married adults are jointly liable for repayment of the indebtedness they incur. Under such coverage, if either or both of the joint debtors are disabled, the periodic indemnity payment due will be paid during the period of disability.

Amended §3.5302 is necessary to delete the provision which currently prohibits the writing of joint credit accident and health insurance. New §3.5502 defines and describes joint credit accident and health insurance, including limitations on the amounts of each periodic indemnity payment and on the total amount of indemnity payable on a single transaction, and the required adjustments due to certain terminations of the joint disability coverage. The agency has changed subsection (g) by changing the word "percentage" to "amount" for clarification. The agency has changed subsection (h) based on comments that it is important to have historical experience on which to set rates for the new policy forms. The agency will collect joint disability data separate from single life data and will collect data separately for the two joint disability options.

General A commenter recommends adoption and believes that carriers can elect to submit forms and a schedule of rates to be used immediately in lieu of waiting until a rate hearing is held to determine the prima facie rate for such coverage. This commenter also believes the forms should be approved immediately if the insurer has submitted justification for its rate schedule. Another commenter believes that the agency should not approve any filings because the value to the consumer of the product is a function of the rates and a premium rate needs to be set at the next credit insurance rate hearing before filings should be approved. A commenter believes that this type of coverage is sought by many consumers and should be authorized so that it may be offered where appropriate. A few commenters support adoption of the joint partial coverage plan only. These commenters believe that the consumer should be able to choose among plans and decide whether each person should be insured for the full debt or part of the debt rather than the lender determining the type of joint coverage to be offered to borrowers. The commenters believe that lenders will only offer full coverage on each joint debtor, since such coverage generates higher premiums and commission income. One commenter recommends that if both plans are approved then it should be required that both plans (full coverage and partial coverage) are offered to every applicant so that the joint debtors can decide which plan they prefer. One commenter argues that the joint credit disability product with 100% coverage for each debtor is of limited value to consumers, but will be the joint credit disability option offered because of higher premiums and commissions relative to the other joint credit disability option. The commenter believes that only one option -- coverage for both debtors equal to a total of 100% -- should be offered and the other option should be eliminated.

Agency Response: The agency disagrees that carriers can use a schedule of rates immediately upon filing. All parties must be given the opportunity to present evidence at a contested rate hearing to assure that a reasonable relation of benefits to premium is provided for this new coverage. The purpose of the adoption is to permit the issuance of joint credit disability coverage. After the effective date of the amendment, forms may be filed for approval which address joint disability coverage under either one or both types of coverages, as set forth in §3.5502(b). However, until presumptive rates are established for joint disability coverage when both debtors are insured for 100% of the monthly payment, as set forth in §3.5502(b)(2), the coverage may not be issued. This coverage in most situations is optional coverage obtained by the consumer at the time of incurring a debt. The creditor negotiates with an insurer the various plans of coverage that it intends to make available to its debtors. The debtor can elect the plan offered by the creditor, not elect the plan offered by the creditor or choose to provide the coverage by some other method. The agency can not require the creditor to select specific plans to offer to its debtors. The agency disagrees with the proposal to eliminate the joint credit disability option for 100% coverage to each debtor. There is no evidence to suggest that either product is of limited value to consumers and the market will decide if the products are valued and subsequently offered. The two joint disability policies represent two different products and both should be available to the public. The fairness of each product is a function of the benefits offered relative to the rate charged and the commissioner sets the rates in a manner to ensure that the rates are fair relative to the benefits.

Section 3.5302. A commenter supports the repeal of subsection (c) in this section as staying current with the extension of credit and the ability of borrowers to repay loans is dependent on continued employment and the income of joint debtors. The commenter believes this will permit insuring the full potential risk of loss of income due to disability when joint borrowers are involved.

Agency Response: The agency agrees. With the change in borrowing patterns, the agency believes it is necessary to permit coverage for joint debtors.

Section 3.5502(b). A commenter suggests that insurers should be permitted to provide in the joint disability forms that, if coverage on one joint insured is voided ab initio or terminated during the coverage term, the portion of the disability benefit for which the other joint debtor is insured will become 100% of the total disability benefit from the date of voiding or termination of coverage. The commenter believes that inclusion of this suggestion in the form would not require payment of a premium refund since the premium charged for the joint coverage is identical to the premium for single coverage providing for the same total benefit payment.

Agency response: The agency agrees that the issue of premium refund with regard to this product might appropriately be revisited, and may consider this issue in a future proposal.

Section 3.5502(d). A commenter suggests modifications to subsections (d) and (e) and a new subsection (f) to clarify provisions relating to termination of coverage on one joint debtor and the amount of refund. This commenter recommends including the phrases "voided ab initio" and "during the coverage term" in subsection (d), including the word "successfully" in (d)(1) for clarification and to enhance readability, and applying (d)(4) to death from any cause, not just suicide. The commenter believes that death of a joint insured should result only in termination of coverage on that joint insured as of the date of death, not retroactive to the effective date of coverage. The commenter believes that only the remaining (unearned) premium should be refunded in such an instance.

Agency Response: The agency agrees with the inclusion of the word "successfully" and has made the change. The agency disagrees with the other suggested modifications. The term "termination" is appropriate for terminations either at the start of coverage or after the coverage commences. In addition, the reference to "termination" is consistent with other similar references in other adopted sections of Subchapter FF. Also, the addition of Latin terminology into the language might not be readily understood by the average insured debtor. The agency does not agree with substituting the more general term "death" in lieu of the current reference to "suicide." When a full death benefit is paid, the underlying indebtedness of the insured is repaid; therefore, the insurance coverage is required to be terminated (§3. 5103(9) requires that all insurance coverage shall terminate upon the discharge of the indebtedness). However, if one of the insureds commits suicide, no death benefit will be paid. The total indebtedness will only be partially repaid to the extent of the required refund of premium, as set forth in §3.5104 and subsection (e) of the proposed section. The agency believes that "other life exclusions" which require the same refund of premium yet pay no death benefit, as does suicide, should be included in the language and has made the change. The refund for joint credit life insurance, for other than open-end coverages, is to be computed as the gross premium charged for joint life coverage minus the gross premium that would have been charged if only single life coverage (on a single insured) had been provided at the time coverage was originally issued. For open-end coverage, the life refund is the total amount of joint credit life premium charged or collected since the date of death minus the single life rate that would have been charged if only single life coverage (on a single insured) had been provided. The agency disagrees that an alternative to providing a refund if the joint disability coverage was provided under the option where each debtor is insured for a portion of the total monthly benefit should be provided. The agency believes that adding such a provision at this time would require republication of the sections and will consider the issue for possible future rulemaking.

A commenter suggests revision of the amount of premium refund in the event that termination of coverage occurs on a joint debtor due to suicide or other life exclusions would be appropriate.

Agency Response: The agency agrees and has changed the section to reflect that the insurer is entitled to a portion of the joint disability premium for the period prior to the date of death due to suicide or other life exclusion and has included language to reflect the appropriate refund. The disability refund to be paid is in addition to any required life refund on the joint insured.

For: Consumer Credit Insurance Association.

For with changes: Consumers Union, CUNA Mutual Group, and Office of Public Insurance Counsel.

## Subchapter FF. Joint Credit Disability Coverage Presumptively Acceptable Relation of Credit Life Insurance Benefits to Premiums

### • 28 TAC §3.5302

The amendment adopted under the authority of the Insurance Code, Articles 3.53, §12 and 1.03A. Article 3.53, §12 authorizes the Commissioner of Insurance to issue such rules and regulations as he deems appropriate for the supervision of The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance. Article 1.03A provides that the commissioner may adopt rules and regulations to execute the duties and functions of the department.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 20, 1996.

TRD-9605917

Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: May 20, 1996

Proposal publication date: October 31, 1996

For further information, please call: (512) 463-6327

### • 28 TAC §3.5502

The amendment adopted under the authority of the Insurance Code, Articles 3.53, §12 and 1.03A. Article 3.53, §12 authorizes the Commissioner of Insurance to issue such rules and regulations as he deems appropriate for the supervision of The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance. Article 1.03A provides that the commissioner may adopt rules and regulations to execute the duties and functions of the department.

#### *§3.5502. Joint Credit Accident and Health Insurance.*

(a) Joint debtors, for purposes of credit accident and health insurance written under Article 3.53, Texas Insurance Code, means only spouses or business partners, and such persons must be jointly and severally liable for repayment of the single indebtedness and be joint signers of the instrument of indebtedness. Endorsers and guarantors are not eligible for credit insurance coverage. Joint accident and health coverage shall not be written covering more than two debtors.

(b) Coverage may be provided by either of the methods set forth in paragraphs (1) and (2) of this subsection:

(1) each debtor is insured for 100% of the disability payment;

(2) each debtor is insured for a portion of the disability payment. The total of the portions shall equal 100% of the disability payment. The joint disability insurance benefit cannot exceed the amount of insurance that would have been provided if coverage had been issued on a single debtor.

(c) Joint disability coverage shall be evidenced by an individual policy or, in the case of group insurance, by a certificate of insurance. The form shall specify the amount of disability benefit to be provided on each debtor. The coverage shall not be provided by

two single individual disability policies or by two single group disability certificates of insurance. Jointly indebted persons shall not both be covered separately at single accident and health rates.

(d) Joint disability forms shall provide that if coverage on one of the joint debtors is terminated, the coverage on the other debtor shall be continued under a single individual disability policy or a single group disability certificate. Coverage may be terminated for any of the reasons stated in paragraphs (1) through (4) of this subsection:

(1) the coverage is successfully contested;

(2) the coverage was issued in error to a joint insured who exceeded the eligibility age limits and who correctly stated his age. Under these circumstances, the insurer has the right to terminate the portion of coverage provided on such insured as long as the adjustment is handled as set forth in subsection (b) of §3.5106 of this title (relating to Prohibited Provisions and Practices) addressing excess coverage;

(3) coverage was issued in error to a joint insured who did not meet the eligibility employment requirements, if required, and who correctly stated his employment status in writing. Under these circumstances, the insurer has the right to terminate the portion of coverage provided on such insured as long as the adjustment is made as set forth in subsection (b) of §3.5106 of this title (relating to Prohibited Provisions and Practices) addressing excess coverage;

(4) suicide or any other life exclusions, as set forth in the policy and/or certificate of insurance.

(e) If termination occurs for any of the reasons set forth in subsection (d) (1)-(3) of this section, the amount of premium refund required will be equal to the difference between the premium charged for joint disability coverage and the premium that would have been charged if only single disability coverage (on a single insured) had been provided at the time the coverage was originally issued. If termination occurs for the reason set forth in subsection (d)(4) of this section, the amount of premium refund required will be equal to the unearned portion, at the date of death, of the premium charged for joint disability coverage minus the unearned portion, at the date of death, of the premium that would have been charged if only single disability coverage (on the single "surviving" insured) had been provided at the time the coverage was originally issued. The refund for joint disability coverage is to be paid in addition to the refund for joint life insurance coverage, in accordance with §3.5104(a)(2) of this title (relating to Benefits and Refunds), if joint life coverage was issued.

(f) If a separate identifiable premium is charged for the joint disability coverage, and if joint coverage is desired by the debtors, each debtor must elect and sign for the joint coverage.

(g) The maximum premiums to be charged for joint disability coverage when each debtor is insured for 100% of the disability payment must be equal to the amount set forth in the latest adopted presumptive premium rates for joint credit disability coverage. The maximum premiums to be charged for joint disability coverage when each debtor is insured for a portion of the disability payment, with the total of the portions equal to 100% of the disability payment, must be equal to the premium that would have been charged if 100% of the disability insurance amount was provided on a single life, as set forth in the latest adopted presumptive premium rates for single life credit disability coverage.

(h) The annual experience data reports required under §3.5701 of this title (relating to Statistical Data and Annual Experience Calls) shall be submitted as follows:

(1) if joint disability coverage is provided on each debtor for 100% of the disability payment, the experience data will be reported as joint disability coverage 1;

(2) if joint disability coverage is provided on each debtor for a portion of the disability payment, with the total of the portions equal to 100%, the experience data will be reported as joint disability coverage 2.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 20, 1996.

TRD-9605918

Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: May 20, 1996

Proposal publication date: October 31, 1996

For further information, please call: (512) 463-6327

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 4. Medicaid Programs-Children and Pregnant Women

##### Eligibility Requirements

###### • 40 TAC §4.1010

The Texas Department of Human Services (DHS) adopts an amendment to §4. 1010, without changes to the proposed text as published in the March 19, 1996, issue of the *Texas Register* (21 TexReg 2211).

The justification for the amendment is to exercise an option under the Social Security Act that allows states the choice to use less restrictive income and resource methods than those used under the most closely related cash assistance programs. DHS proposes to exercise the option to allow a less restrictive income method of determining Medicaid eligibility for children and is amending rules and the Medicaid State Plan to reflect this change.

The amendment will function by ensuring that the eligibility determination process will be streamlined, which will improve staff productivity.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Government Code §531. 021, which provides the Health and Human Service Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code §§22.001-22.030 and §§32.001-32.042.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 20, 1996.

TRD-9605953

Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services

Effective date: May 21, 1996

Proposal publication date: March 19, 1996

For further information, please call: (512) 438-3765

## Chapter 15. Medicaid Eligibility

The Texas Department of Human Services (DHS) adopts the repeal of §15. 453; new §15.453 and §15.454; and an amendment to §15.475 without changes to the proposed text as published in the March 19, 1996, issue of the *Texas Register* (21 TexReg 2212).

The justification for the repeal, amendment, and new sections is to include in the rules that DHS does not deem income or resources from an alien's sponsor in its long term care Medicaid programs.

The amendment will function by ensuring that DHS will be in compliance with federal regulations.

No comments were received by the department regarding adoption of the repeal, amendment, and new sections.

## Subchapter E. Income

### • 40 TAC §15.453

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Government Code, §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The repeal implements the Human Resources Code, §§22.001-22.030 and §§32.001-32.042.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 20, 1996.

TRD-9605954      Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services

Effective date: June 1, 1996

Proposal publication date: March 19, 1996

For further information, please call: (512) 438-3765



### • 40 TAC §§15.453, 15.454, 15.475

The new sections and amendment are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Government Code, §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The new sections and amendment implement the Human Resources Code, §§22.001-22.030 and §§32.001-32.042.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on April 20, 1996.

TRD-9606109      Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services

Effective date: June 1, 1996

Proposal publication date: March 19, 1996

For further information, please call: (512) 438-3765



Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's Note: As required by the Insurance Code, Article 5.96 and 5. 97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin.)*

The Commissioner of Insurance, at a public hearing under Docket Number 2211 held at 10:00 a.m., April 18, 1996 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, adopted amendments proposed by staff to the Texas Automobile Rules and Rating Manual (the Manual). The amendments consist of new and/or adjusted 1992 through 1996 model Private Passenger Automobile Physical Damage Rating Symbols and revised identification information. Staff's petition (Reference Number A-0296-03-I) was published in the March 5, 1996 issue of the *Texas Register* (21 TexReg 1776).

The new and/or adjusted symbols for the Manual's Symbols and Identification Section reflect data compiled on damageability, repairability, and other relevant loss factors for the various model years of the listed vehicles. The exhibit attached to staff's petition omits symbols used by Insurance Services Office (ISO) for multi-purpose and utility type vehicles for 1994 and prior year models, which will continue to be rated according to the traditional method set forth in the Manual, page 2 of the Symbol and Identification Section. For 1995 and later year models, excluding customized vehicles, the symbol for each multi-purpose and utility type vehicle must be used in the same manner as the symbol for a private passenger auto, as required by Commissioner's Order Number 95-0607, effective September 1, 1995. The operative provisions of that order have been printed in the Manual.

The amendments as adopted by the Commissioner of Insurance are shown in exhibits on file with the Chief Clerk under Reference Number A-0296-03-I, which are incorporated by reference into Commissioner's Order Number 96-0469.

The Commissioner of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.10, 5.96, 5.98, and 5.101.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Consistent with the Insurance Code, Article 5.96(h), the Department will notify all insurers writing automobile insurance of this adoption by letter summarizing the commissioner's action.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the Manual is amended as described herein, and the amendments are adopted effective July 1, 1996.

Issued in Austin, Texas, on April 29, 1996.

TRD-9606103      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: July 1, 1996

Filed: April 29, 1996

◆      ◆      ◆  
The Commissioner of Insurance, at a public hearing under Docket Number 2212 held at 10:00 a.m., April 18, 1996 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, adopted amendments proposed by staff to the Texas Automobile Rules and Rating Manual (the Manual). The amendments consist of new and/or adjusted 1996 model Private Passenger Automobile Physical Damage Rating Symbols and revised identification information. Staff's petition (Reference Number A-0296-06-I) was published in the March 12, 1996 issue of the *Texas Register* (21 TexReg 2099).

The new and/or adjusted symbols for the Manual's Symbols and Identification Section reflect data compiled on damageability, repairability, and other relevant loss factors for the various model years of the listed vehicles.

The amendments as adopted by the Commissioner of Insurance are shown in exhibits on file with the Chief Clerk under Reference Number A-0296-06-I, which are incorporated by reference into Commissioner's Order Number 96-0470

The Commissioner of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.10, 5.96, 5.98, and 5.101.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Consistent with the Insurance Code, Article 5.96(h), the Department will notify all insurers writing automobile insurance of this adoption by letter summarizing the commissioner's action.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the Manual is amended as described herein, and the amendments are adopted effective July 1, 1996.

Issued in Austin, Texas, on April 29, 1996.

TRD-9606102      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: July 1, 1996

Filed: April 29, 1996



Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.*

*The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)*

The Commissioner of Insurance, at a public hearing under Docket Number 2223 scheduled for 9:00 a.m., June 20, 1996 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal made in a staff petition. Staff's petition seeks amendment of the Texas Automobile Rules and Rating Manual (the Manual), Rule 135, Endorsement 4R. Mobilowners Policy, and Endorsement TE 20 17, all of which pertain to exclusion of the perils of windstorm, hurricane, hail, and flood from policies covering mobile homes. Staff's petition (Reference Number A-0496-15-I) was filed on April 29, 1996.

Endorsement 4R. (to be redesignated 4R-1) for the Mobilowners Policy, and Endorsement TE 20 17 (to be redesignated TE 20 17A) for the Business Auto, Garage, or Truckers Coverage Form were adopted for purposes explained in Commissioner's Order Number 95-1108, dated October 25, 1995. Each endorsement provides that it may be attached only to policies covering property located in 14 specified counties, which were then the only designated catastrophe areas listed in the Texas Catastrophe Property Insurance Association Manual. Additional territory is now being so designated, so the above endorsements should be amended to allow their attachment "to policies covering

property located in the designated catastrophe areas as provided for in the Texas Catastrophe Property Insurance Association Manual." Manual Rule 135, Sections I. 10 and II.J also need amendment to conform to the language of the endorsements in this regard.

Staff proposes an additional amendment to Endorsement 4R. to preclude the possibility that this endorsement might be construed to expand theft coverage beyond that provided by the basic Mobilowners Policy. This proposed amendment consists of the addition of the following language after the words "attempted theft": "if such loss would otherwise be covered by the policy."

A copy of the petition containing the full text of the proposed amendments to the Manual is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Sylvia Gutierrez at (512) 463-6326; refer to (Reference Number A-0496-15-I).

The written comments should be directed to Office of the Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-2A, Austin, Texas 78714-9104. An additional copy of comments is to be submitted to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, Texas Department of Insurance, P.O. Box 149104, MC 104-5A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 1, 1996.

TRD-9605985

Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

For further information, please call: (512) 463-6327



# TABLES AND GRAPHICS

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Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as “Figure 1” followed by the TAC citation,

Graphic Material will not be reproduced in the Acrobat version of this issue of the Texas Register due to the large volume. To obtain a copy of the material please contact the Texas Register office at (512) 463-5561 or (800) 226-7199.

# OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

**Emergency meetings and agendas.** Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

## State Office of Administrative Hearings

**Monday, May 20, 1996, 9:00 a.m.**

7800 Shoal Creek Boulevard

Austin

Utility Division

AGENDA:

A hearing on the merits is scheduled for the above date and time in the following docket: SOAH Docket Number 473-96-0115; PUC Docket Number 15042: application of GTE Southwest Inc. to revise general exchange tariff to incorporate all centranet and Integrated Services Digital Network (ISDN) services pursuant to PUC Substantive Rule 23.69.

**Contact:** J. Kay Trostle, 300 West 15th Street, Suite 502, Austin, Texas 78701-1649, (512) 936-0728.

**Filed:** May 2, 1996, 9:59 a.m.

TRD-9606048

search committee recommendations; C-O-R-N Committee recommendations; Advertising, promotion and Education Committee recommendations; on proposals presented at committee meetings on May 14, 1996.

Swearing In of New Board Members

Election of Officers

Report: Activity report

Discussion: Funded research proposal; other business

Discussion and action: Setting time and place of next board meeting.

Adjourn

**Contact:** Jerry Don Glover, 218 East Bedford, Dimmitt, Texas 79027, (806) 647-4224.

**Filed:** May 6, 1996, 9:02 a.m.

TRD-9606181



## Texas Department of Banking

**Thursday, May 30, 1996, 2:00 p.m.**

Finance Commission Building, 2701 North Lamar, Third Floor  
Austin

Prepaid Funeral Guaranty Fund Advisory Council

AGENDA:

I. Review and approval of minutes of previous meeting

II. Review and discussion of claim paid against the fund

III. Discussion and review of the status of the fund

IV. Discussion of candidate for 1997-1998 industry member

V. Discussion of public funds investment act training video

**Contact:** Everette D. Jobe, 2601 North Lamar Boulevard, Austin,

## Texas Department of Agriculture

**Wednesday, May 15, 1996, 8:00 a.m.**

Mariott Rivercenter

San Antonio

Texas Corn Producers Board

Revised Agenda

AGENDA:

Call to order

Action on Minutes of February 6, 1996 meeting

Presentation and action: Finance committee recommendations; financial statements; audit procedures; employment agreement; re-



Texas 78705, (512) 475-1300.

**Filed:** May 2, 1996, 11:18 a.m.

TRD-9606054



## **The State Bar of Texas**

**Thursday-Friday, May 9-10, 1996, 8:30 a.m.**

The StageCoach Inn, 1 Main Street (Thursday) The Peaceable Kingdom Retreat, FM 2484 (Friday)

Salado (Thursday) Youngsport (Friday)

Texas Commission for Lawyer Discipline

### **AGENDA:**

Call to order/introduction/review minutes of prior meetings/closed session: discuss authorization of the general counsel/chief disciplinary counsel to make, accept or reject settlement offers or take other appropriate action with respect to pending disciplinary matters, discuss assignment of special counsel to pending disciplinary matters, discuss assignment of special counsel to pending disciplinary cases; discuss personnel matters/public session: discuss and authorize the general counsel/chief disciplinary counsel to take action on matters discussed in closed session/review outcome of recent disciplinary trials/discuss and take appropriate action with respect to the following: defining the commission's relationship to local grievance committees; authorizing third-year bar card holders to try evidentiary cases; requests of Preston Henrichson, Paul Piazza, and Maurice Bresenhan, Jr., to represent respondents in disciplinary matters; attorneys fees assessed in disciplinary cases; matters unresolved in prior meetings; development of mechanism for tracking respondents' compliance with conditions of disciplinary judgments; commission's compliance with the State Bar Act, Texas Rules of disciplinary procedure, and orders of the Supreme Court of Texas; budget and operations of the Commission and the General Counsel's Office; district grievance committees; mediation of disciplinary matters; attorney discipline and disability system; presentations by trial staff/discuss future meetings/discuss other matters as appropriate/receive public comment/adjourn.

**Contact:** Anne McKenna, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

**Filed:** May 1, 1996, 4:15 p.m.

TRD-9606024



## **Texas Certified Self-Insurer Guaranty Association**

**Thursday, May 16, 1996, 1:00 p.m.**

4000 South IH-35, Tippy Foster Meeting Room 910

Austin

Board

### **AGENDA:**

I. Call to order

II. Approval of minutes for the public meeting of February 15, 1996.

III. Discussion, consideration, and possible action on the following initial applications:

A. PACCAR, Inc.

B. Dolgencorp, Inc.

IV. Discussion, consideration, and possible action on the following

renewal applications:

A. Ameron, Inc.

B. Smith's Food and Drug Centers, Inc.

C. JELD-WEN, Inc.

D. The Evangelical Lutheran Good Samaritan Society

E. The Hell Company

F. Dayton Hudson Corporation

G. Jacobs Engineering Group, Inc.

H. Winn-Dixie Texas, Inc.

I. Albertson's Inc.

J. The Stanley Works (Incorporated) 1

K. Sisters of Charity of the Incarnate Word

L. Texaco, Inc.

M. St. Mary of the Plains Hospital

N. Sisters of Mercy Health System, St. Louis

O. J. B. Hunt Transport

V. Discussion of the following withdrawal notification and payout plan approvals:

A. Johnson Controls, Inc.

B. Ruby Tuesday, Inc. (Morrison Restaurants)

VI. Other Business

VII. Discussion of future public meetings.

VIII. Adjournment.

**Contact:** Judy Roach, 1600 San Jacinto Center, 98 San Jacinto Boulevard, Austin, Texas 78701.

**Filed:** May 2, 1996, 4:51 p.m.

TRD-9606093



## **State Child Fatality Review Team Committee**

**Friday, May 10, 1996, 10:00 a.m.**

Texas Department of Health, 1100 West 49th Street

Austin

### **AGENDA:**

1. Agency updates

2. Child Fatality Review Team update

3. Review of Child Death Investigation Model Protocols

4. Improving Child Death Investigations

5. Annual report discussion

**Contact:** Ann Ramsey, 149030, Mail Code 6-11, Austin, Texas 78714, (512) 438-5029.

**Filed:** May 1, 1996, 1:04 p.m.

TRD-9606014



## **Texas Board of Chiropractic Examiners**

**Friday, May 10, 1996, 1:30 p.m.**

333 Guadalupe, Tower I, Room 102

Austin

Revised Agenda

**AGENDA:**

The Texas Board of Chiropractic Examiners will meet on Thursday, March 7, 1996 at 2:00 p.m. to consider, discuss, take any appropriate action, and/or approve: I. Minutes of the March 7, 1996 Board Meeting; II. Report of the President on Board activities and the Chiropractic profession; III. Report of the Executive Director on administration, budget, internal policy and procedure, personnel, and general information on licensees; IV. Committee reports: A. Enforcement Committee 1. Solicitation Issues, 2. Submission of disciplinary actions to National Computer System (CINBAD), 3. Enforcement Actions-Fiscal Year 1996, 4. Cases #94-29, 95-200, 95-239, 95-261, 95-296, 95-215, 95-276, 95-319, 95-199, 95-305, 95-297, 95-324, 95-66, 95-195, 95-215, 95-179, 95-186 and 96-03 through 96-104; B. Licensure and Educational Standards Committee-1. Changes in Connecticut law effecting provisional licensure: Dr. Bruce Sambursky, 2. Waiver of educational requirements for provisional licensure: Dr. Geneva Watson and Dr. William B. Marshall, 3. Request for students between 9th and 10th trimester to take June examination: Palmer College of Chiropractic and Christopher Handlos, 4. Passing scores for National Board exams, 5. Waiver of testing requirements to sit for June exam: James F. Wray and Dr. Don Loeffler, 6. Special request to take June exam: Robert E. Grant, Jr. and Jackie D. Bonner, II, 7. Assignment of Board Members to attend seminar and conduct Board presented seminar (Tabled March 7, 1996), 8. Board policy on preceptorship (Tabled March 7, 1996), 9. Audio/Video continuing education programs (Tabled March 7, 1996), 10. Reinstatement of license terminated for non-renewal: Dr. Fred Bradley, Dr. Gerald Smalling and Dr. Douglas Rath; C. Technical Standards committee-1. Orthotics: Dr. Kathleen Summers, 2. Homeopathic medicines, 3. Billing procedures, 4. Physician referral marketing plan, 5. AIDS patients, 6. Request for Attorney General Opinion on Injectables, 7. JMPT Scope of Practice; D. Rules Committee-1. Professional credential rule: Dr. Carroll Guice, 2. Rules proposed by Chiropractic Society of Texas on October 26, 1995, 3. rules on Default on Student Loans (Tabled April 16, 1996), 4. Rule on Chiropractic Records (Tabled April 16, 1996), 5. Rule on Travel to Treat (Tabled April 16, 1996), 6. Repeal of §76.2, confidentiality; E. Executive committee-1. Strategic plan; V. Committee structure; VI. Advisory committee meeting; VII. Changes to Policies and Procedures Manual; VIII. Items to be considered for future agenda.

**Contact:** Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6700.

**Filed:** May 1, 1996, 4:35 p.m.

TRD-9606027

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**Comptroller of Public Accounts**

**Wednesday, May 15, 1996, 10:30 a.m.**

General Services Building, Room 200A, 1711 San Jacinto  
Austin

Committee to Adopt Rules on Appraisal of Qualified Timberland  
**AGENDA:**

Discussion and vote on Manual for the Appraisal of Timberland

**Contact:** Rebecca Lightsey, Comptrollers Office, Property Tax Division, Austin, Texas, 78701, (512) 305-9999.

**Filed:** May 6, 1996, 9:03 a.m.

TRD-9606184

**Texas Corn Producers**

**Tuesday, May 14, 1996, 9:00 a.m.**

Marriott Rivercenter

San Antonio

9:00 a.m. Finance Committee-Call to order; discussion on financial statements; discussion on audit procedures; discussion on employment agreement; discussion on any other business; adjourn.

10:00 a.m. Research Proposals and Oversight Committee-Call to order; discussion on research proposals from Dr. Odvody and from John Sweeten; discussion on funding of proposal by Dr. Frederiksen; discussion of current funding for proposal by Drs. Rush and Michels; discussion on any other business; adjourn.

11:00 a.m. C-O-R-N Committee-Call to order; discussion on letter for refund requests, changes to Kernel and New Mailing List; second marketing class and TCPB funding, meetings to be held during Farm Shows, TCPB future activities, any other business; adjourn.

1:00 p.m. Advertising, Promotion and Education-Call to order, presentation on proposals from TALL, Baylor University, U.S. Feed Grains Council, AGRiculture SERVICES Advertising, The Thacker Group, Television and Billboard, AgriFood Education Council, David Senter's Relations, TCGA for Industrial Uses of Corn; Discussion on Updating TCPB Side Presentation, TCPB getting on the World Wide Discussion on other promotional projects; discussion on any other business; adjourn.

**Contact:** Jerry Don Glover, 218 East Bedford, Dimmitt, Texas 79027, (806) 647-4224.

**Filed:** May 6, 1996, 8:50 a.m.

TRD-9606180

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**Texas Diabetes Council**

**Tuesday, May 14, 1996, 8:30 a.m.**

Room T-607, Texas Department of Health, 1100 West 49th Street  
Austin

Managed Care Committee

**AGENDA:**

The committee will discuss and possibly act on: report of outcome data/quality assurance data committee; committee recommendations; and reports from committee members.

**Contact:** Amy Pearson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

**Filed:** May 2, 1996, 3:47 p.m.

TRD-9606071

**Tuesday, May 14, 1996, 10:00 a.m.**

Room T-607, Texas Department of Health, 1100 West 49th Street  
Austin

Industry Advisory Committee

**AGENDA:**

The committee will discuss and possibly act on: 1996 plans; industry plans and cooperative efforts; managed care update; continuing medical education update; and material developing efforts (physician education materials; allied health; and patient education materials).

**Contact:** Amy Pearson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

**Filed:** May 2, 1996, 3:47 p.m.

TRD-9606072

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## Advisory Commission on State Emergency Communications

**Wednesday, May 15, 1996, 10:00 a.m.**

333 Guadalupe Street, Room 100

Austin

Planning and Implementation Committee

### AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take committee action, as necessary: consider any comments received and final adoption of Rule 251.6, guidelines for strategic plans, amendments, and equalization surcharge allocation; 9-1-1 database and other interconnection issues; district/regional council strategic plan review, approval of April 2, 1996, committee meetings minutes. The committee may meet in executive session on any of the above items as authorized by the Texas Open Meetings Act, and pursuant to Government Code 551, Subchapter D. Adjourn.

Persons requesting interpreter services for the hearing- and impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

**Contact:** Velia S. Williams, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

**Filed:** May 2, 1996, 8:16 a.m.

TRD-9606034

**Wednesday, May 15, 1996, 1:30 p.m.**

333 Guadalupe Street, Room 100

Austin

Operations and Performance Committee

### AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take committee action, as necessary: ACSEC financial report; review of FY 1997 ACSEC budgetary matters; status of ACSEC agency strategic plan; request from AT&T to waive monthly filing requirements in lieu of quarterly payments; request from Southwestern Bell Mobile Systems to waive monthly remittance of Cellular 9-1-1 service fee, 9-1-1 equalization surcharge and poison equalization surcharge in lieu of quarterly payments; approval of April 2, 1996, committee meeting minutes. The committee may meet in executive session on any of the above items as authorized by the Texas Open Meetings Act, and pursuant to Government Code 551, Subchapter D. Adjourn.

Persons requesting interpreter services for the hearing- and impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

**Contact:** Velia S. Williams, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

**Filed:** May 2, 1996, 8:16 a.m.

TRD-9606035

**Wednesday, May 15, 1996, 3:00 p.m.**

333 Guadalupe Street, Room 100

Austin

Legislative and Regulatory Committee

### AGENDA:

The committee will call the meeting to order and recognized guests; hear public comment; hear reports, discuss and take committee action, as necessary: regulatory and legislative issues to include, but not limited to, Federal Communications Commission and Public Utility Commission proceedings; approval of April 2, 1996, committee meeting minutes. The committee may meet in executive session on any of the above items as authorized by the Texas Open Meetings Act, and pursuant to Government Code 551, Subchapter D. Adjourn.

Persons requesting interpreter services for the hearing- and impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

**Contact:** Velia S. Williams, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

**Filed:** May 2, 1996, 8:16 a.m.

TRD-9606036

**Thursday, May 16, 1996, 9:00 a.m.**

333 Guadalupe Street, Boardroom 2-225

Austin

Poison Control Committee

### AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take committee action, as necessary: poison control financial report; review of FY 1997 ACSEC budgetary matters; poison control coordinating committee; Phase II, telecommunications system; April 2, 1996, committee meeting minutes. Adjourn.

Persons requesting interpreter services for the hearing- and impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

**Contact:** Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

**Filed:** May 2, 1996, 8:17 a.m.

TRD-9606038

**Thursday, May 16, 1996, 10:00 a.m.**

333 Guadalupe Street, Boardroom 2-225

Austin

Commission

### AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take commission action, as necessary: interview applicants and make selection decision(s) on executive director position; recess: commission will convene in executive session in accordance with Government Code 551, Subchapter D, to interview and make selection decision on the executive director position; reconvene: commission will report and discuss action resulting from executive session and possibly make selection decision(s) on executive director position. Adjourn.

Persons requesting interpreter services for the hearing- and impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

**Contact:** Velia S. Williams, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

**Filed:** May 2, 1996, 8:17 a.m.

TRD-9606037



## **State Employee Charitable Campaign**

**Tuesday, May 21, 1996, 3:00 p.m.**

901 Ross Avenue

Dallas

Local Employee Committee-Dallas

AGENDA:

1. Review 1996 campaign plan
2. Set next meeting date and agenda

**Contact:** Kimberley Barber, 901 Ross Avenue, Dallas, Texas 75202, (214) 978-0075, Fax (214) 922-8232.

**Filed:** May 3, 1996, 8:46 a.m.

TRD-9606096

**Tuesday, May 21, 1996, 3:30 p.m.**

128 East Second Street

Odessa

Local Employee Committee

AGENDA:

Discussion/action items:

1. Review and approve 1996 budget
2. Plan 1996 campaign strategy
3. Set next meeting date and agenda

**Contact:** Jill Nelson, 128 East Second Street, Odessa, Texas 79761, (915) 332-0941, Fax (915) 332-5245.

**Filed:** May 6, 1996, 10:10 a.m.

TRD-9606194



## **Texas Ethics Commission**

**Friday, May 10, 1996, 9:30 a.m.**

1101 Camino La Costa, Room 235

Austin

AGENDA:

The commission will take roll call; hear comments by the commissioners and the executive director, and communications from the public; approve the minutes of the April 19, 1996, meeting; briefing, discussion, and possible action to waive certain fines assessed for late filing of campaign finance or lobby reports; briefing, discussion, and possible action to waive certain fines assessed for late filing of personal financial statements; discussion and possible action in response to the following Advisory Opinion Requests Number 347, 356, 359, 362, 363, and 364; Adjourn.

**Contact:** Tom Harrison, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

**Filed:** May 2, 1996, 3:51 p.m.

TRD-9606076



## **Office of the Governor**

**Monday, May 13, 1996, 9:00 a.m.**

Texas State Capitol Extension E1.016, West 15th Street at Congress Avenue

Austin

Inaugural Endowment Fund Committee

AGENDA:

- I. Call to order-Mrs. Laura Bush, Chair
- II. Approval of minutes of April 24, 1996
- III. Discussion by members of types of projects to be funded by the committee
- IV. Discussion of timeline and process for funding of projects
- V. Scheduling of future meetings
- VI. Adjournment

**Contact:** Pam Willeford, 2511 McCullough, Austin, Texas 78703, (512) 473-8887, Fax (512) 477-6130.

**Filed:** May 2, 1996, 3:47 p.m.

TRD-9606070

**Monday, May 13, 1996, 9:00 a.m.**

Texas State Capitol Extension E1.016, West 15th Street at Congress Avenue

Austin

Inaugural Endowment Fund Committee

AGENDA:

- I. Call to order-Mrs. Laura Bush, Chair
- II. Approval of minutes of April 24, 1996
- III. Discussion by members of types of projects to be funded by the committee
- IV. Discussion of timeline and process for funding of projects
- V. Scheduling of future meetings
- VI. Adjournment

**Contact:** Pam Willeford, 2511 McCullough, Austin, Texas 78703, (512) 473-8887, Fax (512) 477-6130.

**Filed:** May 6, 1996, 9:57 a.m.

TRD-9606192



## **Texas Health and Human Services Commission**

**Wednesday, May 15, 1996, 4:00 p.m.**

North Dallas High School, 3120 North Haskell

Dallas

AGENDA:

The purpose of these hearings is to seek public participation on the development of the Medicaid managed care program. We are seeking comments on ways to develop a health care delivery system that will best meet the needs of the Medicaid clients. This program will be developed under the current authority of the 1915(b) freedom of choice waivers. Comments will also be taken on the long term care integrated managed care model where the Legislature has requested that the Health and Human Services Commission develop a pilot to

integrate acute care and long term care services into one delivery system.

**Contact:** Colleen Paige, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 424-6517.

**Filed:** May 6, 1996, 10:26 a.m.

TRD-9606205

**Thursday, May 16, 1996, 6:00 p.m.**

County Commissioner's Court House, 500 East San Antonio Avenue, Third Floor, Commissioner's Court Chambers

El Paso

AGENDA:

The purpose of these hearings is to seek public participation on the development of the Medicaid managed care program. We are seeking comments on ways to develop a health care system that will best meet the needs of the Medicaid clients. This program will be developed under the current authority of the 1915(b) freedom of choice waivers. Comments will also be taken on the long term care integrated managed care model where the Legislature has requested that the Health and Human Services Commission develop a pilot to integrate acute care and long term care services into one delivery system.

**Contact:** Colleen Paige, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 424-6517.

**Filed:** May 6, 1996, 10:26 a.m.

TRD-9606206



## **Texas House of Representatives**

**Tuesday, May 28, 1996, at 10:00 a.m.**

State Capitol Extension, 15th and Congress, E1.030

Austin

House Committee on Appropriations Subcommittee on Special Issues Regarding State Compensation

AGENDA:

Austin

I. Call to Order

II. Roll Call

III. Old Business

IV. New Business

V. Adjourn

**Contact:** Tim Dudley, P.O. Box 2910, Austin, Texas 78703, (512) 463-0850.

**Filed:** May 3, 1996, 3:39 p.m.

TRD-9606145

**Wednesday, May 29, 1996, 10:00 a.m.**

Capitol Extension, 15th Street and Congress Avenue, Room E1.030

Austin

House Committee on Appropriations Subcommittee on Salary and Benefit Comparison

AGENDA:

I. Call to order

II. Roll call

III. New business

IV. Old business

V. Adjournment

**Contact:** Janis Carter, P.O. Box 2910, Austin, Texas 78703, (512) 463-1091.

**Filed:** May 1, 1996, 11:39 a.m.

TRD-9606010

**Thursday, May 30, 1996, 1:00 p.m.**

State Capitol Extension, 15th and Congress, Extension Auditorium/E1.030

Austin

House Committee on Appropriations Subcommittee on Major Information Systems

AGENDA:

I. Call to order

II. Roll call

III. The subcommittee will view information systems on display in the Extension Auditorium before beginning testimony in E1.030

IV. New Business

V. Adjourn

**Contact:** Tim Dudley, P.O. Box 2910, Austin, Texas 78703, (512) 463-0850.

**Filed:** May 3, 1996, 3:39 p.m.

TRD-9606144



## **Texas Department of Housing and Community Affairs**

**Sunday, May 12, 1996, 9:00 a.m.**

507 Sabine, Suite 437

Austin

Low Income Housing Tax Credit Committee

AGENDA:

The Low Income Housing Tax Credit Committee of the Board of Texas Department of Housing and Community Affairs will meet to consider and possibly act on: approval of the Qualified Allocation Plan for 1996 for the Low Income Housing Tax Credit Program; Executive Directors Report; executive session-consultation with attorney under §551.071 of the Texas Government Code; anticipated litigation-General Counsel to give report on litigation under §551.071 Texas Government Code; act in open session on items in executive session; Adjourn.

**Contact:** L. P. Manley, 507 Sabine, #900, Waller Creek Office Building, Austin, Texas 78701, (512) 475-3934.

**Filed:** May 2, 1996, 4:29 p.m.

TRD-9606087



## **Texas Incentive and Productivity Commission**

**Wednesday, May 16, 1996, 1:00 p.m.**

Clements Building, 15th and Lavaca, Room 406, Conference Room of State Pension Review Board

Austin

**AGENDA:**

- I. Call to order and roll call
- II. Approval of minutes of previous meeting
- III. Consideration of employee suggestions for approval
- IV. Consideration of 1996 productivity bonus plans for approval
- V. Consideration of agency strategic plan for 1997-2001 for approval
- VI. Consideration of and possible action on recommendations for administrative and statutory changes to the Texas Incentive and Productivity Commission, the State Employee Incentive Program, and the productivity Bonus Program
- VII. Report on Administrative Matters
- VIII. Adjournment

**Contact:** M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

**Filed:** May 6, 1996, 9:03 a.m.

TRD-9606183



## **State Independent Living Council**

**Friday, May 10, 1996, 11:00 a.m.**

8610 Broadway, Suite 420

San Antonio

Marketing Committee-Teleconference

**AGENDA:**

Discussion of statewide marketing campaign

**Contact:** Carl Wright, 8610 Broadway, Suite 420, San Antonio, Texas 78217.

**Filed:** May 1, 1996, 1:53 p.m.

TRD-9606019



## **Texas Department of Insurance**

**Monday, May 20, 1996, 1:00 p.m.**

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

**AGENDA:**

To consider whether disciplinary action should be taken against Matthew M. Batuuuka, Houston, Texas, who holds a Local Recording Agent's License issued by the Texas Department of Insurance.

**Contact:** Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

**Filed:** May 6, 1996, 10:29 a.m.

TRD-9606215

**Tuesday, May 21, 1996, 1:00 p.m.**

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

**AGENDA:**

To consider whether disciplinary action should be taken against Tony Caballero, Dallas, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License, a Variable Contract Agent's License, and an HMO Agent's License issued by the Texas Department of Insurance.

**Contact:** Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

**Filed:** May 6, 1996, 10:13 a.m.

TRD-9606197

**Friday, May 24, 1996, 1:00 p.m.**

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

**AGENDA:**

To consider whether disciplinary action should be taken against Kimberly F. Hamilton, Fort Worth, Texas who holds a Group I, Legal Reserve Life Insurance Agent's License issued by the Texas Department of Insurance.

**Contact:** Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

**Filed:** May 6, 1996, 10:14 a.m.

TRD-9606198



## **Texas Department of Licensing and Regulation**

**Thursday, May 9, 1996, 9:00 a.m.**

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Enforcement Division, Staff Leasing

**AGENDA:**

According to the complete agenda, the Department will hold an Administrative Hearing to consider the possible assessment of administrative penalties against the Respondent, Norrell Temporary Services, Inc., for performing staff leasing services in Texas without first becoming licensed in violation of 16 Texas Administrative Code, §72.20(a), pursuant to the Texas Laboratory Code, Chapter 91, the Texas Civil Statutes, Article 9100; the Texas Government Code, Chapter 2001 (APA); and 16 Texas Administrative Code, Chapter 72.

**Contact:** Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

**Filed:** May 1, 1996, 3:29 p.m.

TRD-9606022

**Thursday, May 16, 1996, 9:00 a.m.**

920 Colorado, E.O. Thompson Building, Fourth Floor, Room 420

Austin

Enforcement Division, Air Conditioning

**AGENDA:**

According to the complete agenda, the Department will hold an Administrative Hearing to consider the possible assessment of administrative penalties against the revocation of the air conditioning license of the Respondent, Steve Garza, for violation of the Texas



Civil Statutes, Article 8861 (the Act) §5(a) and the 16 Texas Administrative Code, §75.70(i), 75.40(b) and 75.40(e), pursuant to the Act and Article 9100; the Texas Government Code, Chapter 2001 (APA); and 16 Texas Administrative Code, Chapter 75.

**Contact:** Paula Hamje, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

**Filed:** May 3, 1996, 9:50 a.m.

TRD-9606105

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## Texas State Board of Medical Examiners

**Monday, May 13, 1996, 9:00 a.m.**

333 Guadalupe, Tower 3, Suite 610

Austin

Medical School Committee

AGENDA:

Call to Order

Roll Call

Report from Dr. Levy on meeting with the medical school deans

Discussion of medical school visits

Adjourn

**Contact:** Pat Wood, P.O. Box 208, MC-901, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:37 p.m.

TRD-9606164

**Monday, May 13, 1996, 9:00 a.m.**

333 Guadalupe, Tower 3, Suite 610

Austin

Disciplinary Process Review Committee

AGENDA:

1. Call to Order

2. February 1996 Enforcement Report

3. March 1996 Enforcement Report

4. April 1996 Enforcement Report

5. Discussion about reduced Continuing Medical Education course fees for physicians whose licenses have been suspend or revoked by the Board

6. Discussion, recommendation, and possible action on proposed rules regarding x-rays and films related to medical care

7. Discussion, recommendation, and possible action on comment concerning adopted rules regarding medical records

8. Discussion, recommendation, and possible action on proposed rules concerning service in non-rulemaking proceedings

9. Executive session to review selected films and cases recommended for dismissal by Informal Settlement Conferences

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, as related to Article 4495b, 2.07(b), 4.05(d), 5.06(s)(1), and Op. A.G. 1974, Number H-484.

**Contact:** Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:36 p.m.

TRD-9606158

**Monday, May 13, 1996, 9:30 a.m.**

333 Guadalupe, Tower 3, Suite 610

Austin

Finance Committee

AGENDA:

1. Call to Order

2. Roll Call

3. Financial Statements

4. Strategic Plan

5. Parking

6. Annenberg Foundation

7. Adjourn

**Contact:** Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:36 p.m.

TRD-9606159

**Monday, May 13, 1996, 10:00 a.m.**

Austin

Examination Committee

AGENDA:

Call to Order and Roll Call

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §§2.07(b), 2.09(o), Texas Revised Civil Statutes, to review applicant files for licensure.

Review of licensure applicant, Michael Scott Phillips, M.D.

Review of new Texas Medical Jurisprudence Examination

Executive session under the authority of Article 4495, §3.05(d), Texas Revised Civil Statutes; and Attorney General Opinion H-484, to review the new jurisprudence examination

Review of the release of the May 1996 examination scores

Review of licensure applicants: Miltiadis N. Leon, M.D., Maha Khalifa Al-Lahiq, M.D., Eugenio Medina Bricio, M.D., Orlando M. Morales, M.D.

Review of licensure applicant #1 under §3.081 of the Medical Practice Act

**Contact:** Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:37 p.m.

TRD-9606165

**Monday-Wednesday, May 13-15, 1996, 11:00 a.m., 1:00 p.m. and 8:30 a.m. respectively**

333 Guadalupe, Tower 2, Suite 225

Austin

AGENDA:

The agenda includes executive session to review the new Texas Medical Jurisprudence Examination; committee reports and approval of action items; executive session to consult with counsel regarding pending or contemplated litigation; proposal for decision concerning Myung Jin Kim, M.D., requests for termination of suspension concerning William W. Prater, M.D., Donald W. Smith, M.D., John

Ranelle, D.O. Donald Scott Kennady, M.D., Matthews Benzaquen, M.D., termination request on Robert E. Galloway, M.D.; request for reinstatement on Gary A. Sherp, M.D., request for permission to practice in Texas and modification request on Dennis A. Uldrich, M.D.; consideration and approval of orders; update, discussion, recommendation, and possible action on electromyographic and nerve conduction velocity studies; approval of minutes; and executive director's report.

**Contact:** Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:42 p.m.

TRD-9606170

**Monday, May 13, 1996, 1:00 p.m.**

333 Guadalupe, Tower 3, Suite 610

Austin

Endorsement Committee

AGENDA:

1:00 p.m. Call to Order

1. Roll Call

2. Executive Session under the authority of the Open Meeting Act, §551.071 of the Government Code, and Article 4495b, §§2.07(b), 2.09(o), Texas Revised Civil Statutes, to consult with counsel regarding pending or contemplated litigation.

3. Review of licensure applicants referred to the Endorsement Committee by the Executive Director for determinations of eligibility for licensure:

a. Applicant #1 (Consideration under §3.081 of the Medical Practice Act)

b. David Christopher Mantsch D.O.

c. John William Hovorka, M.D.

d. Charles R. Roe, M.D.

e. Pedro Antonio Ballester, M.D.

f. David Gregory Walker

g. James Robert Borger, M.D.

Executive Session under the authority of The Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §§2.07(b), 2.09(o), Texas Revised Civil Statutes.

**Contact:** Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:36 p.m.

TRD-9606160

**Monday, May 13, 1996, 4:00 p.m.**

333 Guadalupe, Tower 2, Suite 225

Austin

Joint Meeting of the Endorsement Examination Committees

AGENDA:

Call to Order

Roll Call

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §§2.07(b), 2.09(o), Texas Revised Civil Statutes, to consult with counsel regarding pending or contemplated litigation

University of Texas Southwestern MD/PhD program

Letters of eligibility to practice in the county of graduation relating to §3.04(g)(3) of the Medical Practice Act (formerly §5.35(a)(4))

Texas Osteopathic Medical Association proposal regarding NBOME (National Board of Medical Examiners)

Fifth Pathway

Proposed changes to licensure sections of the Medical Practice Act

**Contact:** Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:37 p.m.

TRD-9606166

**Tuesday, May 14, 1996, 8:30 a.m.**

333 Guadalupe, Tower 2, Suite 225

Austin

Public Information Committee

AGENDA:

Call to Order

Roll Call

Discussion, recommendation, and possible action on upcoming exhibits

Discussion, recommendation, and possible action on library poster

Discussion, recommendation, and possible action on potential newsletter articles

Adjourn

**Contact:** Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:36 p.m.

TRD-9606157

**Tuesday, May 14, 1996, 9:00 a.m.**

333 Guadalupe, Tower 2, Suite 225

Austin

Standing Orders Committee

AGENDA:

Call to order and roll call

Request from Community Oriented Primary Care for approval of supervise nine mid-level practitioners in the Dallas Independent School District

Discussion, recommendation, and possible action regarding amendments to Rule 166.2 related to continuing medical education

Discussion, recommendation, and possible action related to a request that Texas have an inactive status for those physicians practicing out of the state

Discussion, recommendation, and possible action on proposed amendments to Chapter 183 as recommended by the State Board of Acupuncture Examiners-§§183.2; 183.3(g); 183.4(a); 183.4(f)(2)(G); and 183.14(b)

Review and consideration for approval of acupuncture licensure applications as recommended by the Board of Acupuncture Examiners

Discussion, recommendation, and possible action on proposed rules related to emergency medical technicians



Discussion, recommendations, and possible action on rules related to drug therapy management

Update on physician supervision of midlevel practitioners

**Contact:** Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:37 p.m.

TRD-9606168

**Tuesday, May 14, 1996, 9:30 a.m.**

333 Guadalupe, Tower 3, Suite 610

Austin

Ad Hoc Committee on Non-Profit Health Organizations

AGENDA:

1. Call to order
2. Roll Call
3. Discussion, recommendation, and possible action on amendments to Board Rule §161.1(g) to make the Ad Hoc Committee on Non-Profit Health Organizations a standing committee on the board
4. Discussion, recommendation, and possible action on proposed amendments to Chapter 177 concerning the certification of non-profit health organizations as they relate to migrant, community, or homeless health centers under the Medical Practice Act, §5.01(b)
5. Discussion, recommendation, and possible action on proposed amendments to Chapter 177 requiring non-profit organizations to post the board's 1-800 number for the for the purposes of making a complaint
6. Discussion, recommendation, and possible action on a form to be used in the certification process of non-profit health organizations under the Medical Practice Act, §5.01(b), and recertification forms for non-profit health organizations certified under the Medical Practice Act, §5.01(a)
7. Approval of applications for certification of non-profit health organizations
8. Adjourn

**Contact:** Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:36 p.m.

TRD-9606161

**Tuesday, May 14, 1996, 10:30 a.m.**

333 Guadalupe, Tower 2, Suite 225

Austin

Legislative Committee

AGENDA:

Call to Order

Roll Call

Discussion, recommendation, and possible action regarding the Board's recommended statutory changes during the next legislative session

**Contact:** Pat Wood, P.O. Box 2018, MC-901, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:37 p.m.

TRD-9606167

**Tuesday, May 14, 1996, 4:00 p.m.**

333 Guadalupe, Tower 2, Suite 225

Austin

Ad Hoc Committee on Ethical Issues

AGENDA:

Call to Order

Roll Call

Report from Dr. Pollan and Dr. Levy regarding the recent meeting with the Jurisprudence Professors

Report from Dr. Levy regarding the ethics course for Board members

Discussion, recommendation, and possible action or draft of article pertaining to physician advertising

Discussion of future issues

Adjourn

**Contact:** Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:37 p.m.

TRD-9606162

**Tuesday, May 14, 1996, 4:30 p.m.**

333 Guadalupe, Tower 3, Suite 610

Austin

Ad Hoc Committee on Telemedicine

AGENDA:

Call to Order

Roll Call

Report on the telemedicine meeting at the Federation's annual meeting

Discussion, recommendation, and possible action on House Bill 2669 and related to telemedicine issues

Adjourn

**Contact:** Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

**Filed:** May 3, 1996, 4:37 p.m.

TRD-9606163



## **Texas Council on Offenders with Mental Impairments**

**Monday, May 13, 1996, 1:30 p.m.**

8610 Shoal Creek Boulevard, Executive Board Room

Austin

Program Committee

AGENDA:

I. Introductions

II. Public Comments

III. Approval of minutes (Attachment A)

IV. Overview of proposed outcomes for contract agencies (Attachment B)

V. Overview of consumer satisfaction survey (Attachment C)

VI. Status report on program performance (1st and 2nd Quarter) (Attachment D)

1. Number of clients served
2. Entitlements
3. Barriers to service
4. Other program issues

VII. Status report on substance abuse treatment

VIII. Status report on vocational services (Attachment E)

Each item above includes discussion and action as necessary

**Contact:** Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406.

**Filed:** May 2, 1996, 8:18 a.m.

TRD-9606039

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## Texas Natural Resource Conservation Commission

**Monday, May 13, 1996, 1:30 p.m.**

Room 201S, Building E., 12118 North Interstate 35  
Austin  
AGENDA:

This meeting is a work session for discussion between Commissioners and staff. No public testimony or comment will be accepted except by invitation of the commission.

**Contact:** Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

**Filed:** May 3, 1996, 9:48 a.m.

TRD-9606147

**Wednesday, May 15, 1996, 9:30 a.m.**

Room 201S, Building E, 12118 North Interstate 35  
Austin  
AGENDA:

The Commission will consider approving the following matters on the attached agenda: Hearing request; Industrial Hazardous Waste Enforcement; Municipal Waste Discharge Temporary Order; Municipal Solid Waste Management Plan; Petroleum Storage Tank enforcement; Utility Matter; Public Water Supply Enforcement; Rule; Executive Session; the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration for 9:30 Agenda Starts 8:45 until 9:25).

**Contact:** Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

**Filed:** May 6, 1996, 9:02 a.m.

TRD-9606182

**Tuesday, May 21, 1996, 10:00 a.m.**

Building B, Room 1014A, 12124 Park 35 Circle (TNRCC Complex)  
Austin

### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an appeal filed with the Texas Natural Resource Conservation Commission protesting Manville Water Supply Corporation's fee for new connection. Manville Water Supply Corporation provides water service in Travis County, Texas. SOAH Docket Number 582-96-0732.

**Contact:** Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

**Filed:** May 2, 1996, 9:32 a.m.

TRD-9606044

**Friday, May 24, 1996, 10:00 a.m.**

Building F, Room 31034, 12015 Park 35 Circle (TNRCC Complex)  
Austin

### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation by Rocket Water Company, Inc. to amend its water Certificate of Convenience and Necessity (CCN) Number 12776 in order to provide water utility service in Hays County, Texas. The applicant also proposes decertification of a portion of water CCN Number 11564 issued to Elim Water Company, Inc. The proposed utility service area is located approximately three miles north of downtown San Marcos, Texas and is generally bounded on the south by County Road 222 and on the east by County Road 225, including the Woodlands and Briarwood Subdivisions. The total area being requested includes no current customers. SOAH Docket Number 582-96-0730.

**Contact:** Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

**Filed:** May 2, 1996, 9:32 a.m.

TRD-9606045

**Thursday, May 30, 1996, 10:00 a.m.**

Building F, Room 5108, 12015 Park 35 Circle (TNRCC Complex)  
Austin

### AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by Glenn R. Dexter doing business as Forest Springs Water Supply Company for a Certificate of Convenience and Necessity (CCN) to provide water utility service in Bexar County, Texas. The applicant also proposes decertification of a portion of CCN Number 10684 issued to the City of Elmendorf to provide water utility service in Bexar County. The proposed utility service area includes a proposed 1,273-acre Subdivision located approximately 14 miles southeast of downtown San Antonio, Texas and is generally bounded on the north by U.S. Highway 181, on the east by the county line, on the south by the San Antonio River, and on the west by FM 1604. The total area being requested includes approximately ten square miles and no current customers. SOAH Docket Number 582-96-0758.

**Contact:** Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

**Filed:** May 2, 1996, 9:33 a.m.

TRD-9606046

**Tuesday, June 4, 1996, 10:00 a.m.**

Gililand Elementary School Gym, 701 Waggoman

Blue Mound

**AGENDA:**

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission for an increase of water and sewer rates for Saginaw Park Utility Company, Inc. doing business as Blue Mound Utility Company (Saginaw Park) effective October 1, 1995 in Tarrant County, Texas. Saginaw Park is an investor-owned water and sewer utility whose water and sewer service areas are located entirely within the corporate limits of the City of Blue Mound. The proposed rate increase was considered by the Blue Mound City Council on September 5, 1995 and September 19, 1995 and approved on September 19, 1995. Ratepayers of Saginaw Park have filed a petition appealing the rate increase. SOAH Docket Number 582-96-0733.

**Contact:** Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

**Filed:** May 2, 1996, 9:33 a.m.

TRD-9606047

**Tuesday, June 25, 1996, 10:00 a.m.**

Gregg City Courthouse, Auxiliary Courtroom, Third Floor, 101 Methvin Street

Longview

**AGENDA:**

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application made to the Texas Natural Resource Conservation Commission by Texas Eastman, Division of Eastman Chemical Company, for a Class 3 Modification of their hazardous waste management permit Number HW50043-01. This hearing can be referenced by the SOAH Docket Number 582-96-0763.

**Contact:** Susan Prior, 300 West 15th Street, Suite 502, Austin, Texas 78701, (512) 475-4993.

**Filed:** May 2, 1996, 1:43 p.m.

TRD-9606063

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**Board of Nurse Examiners**

**Wednesday, May 2, 1996, 5:00 p.m.**

Nueces Room, Corpus Christi Marriott, 900 North Shoreline Boulevard

Corpus Christi

**AGENDA:**

The Executive Committee of the Board of Nurse Examiners will meet at 5:00 p. m. to follow up on their work session to complete the Board's Governance statement and to discuss preliminary LAR information. The meeting will adjourn by 6:00 p.m.

From 6:30-8:00 p.m. the Board of Nurse Examiners will conduct a public forum in the Nueces Room, Corpus Christi Marriott Hotel, 900 North Shoreline Boulevard, Corpus Christi, Texas. The purpose of the forum is to provide the public an opportunity to address the members of the Board on any issue within its preview.

**Contact:** Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 305-6811.

**Filed:** May 3, 1996, 2:46 p.m.

TRD-9606135

**Thursday-Friday, May 23-24, 1996, 8:00 a.m.**

Blucher Institute, Texas A&M University, Corpus Christi Campus, 6300 Ocean Drive

Corpus Christi

**AGENDA:**

The Board of Nurse Examiners will review the minutes from the March 7, 1996 and March 28-29 meeting. February and March financial statements; consider practice, education/examination matters, including public hearings at 9:00 and 9:30 a.m. respectively, in relation to proposed extended campuses for The University of Texas at Tyler, BSN program at Palestine and The University of Texas Arlington, BSN program at Kaufman. The Board will also consider licensing and compliance matters. An open forum will be held from 1:30-2:00 p. m. on May 23 to provide an opportunity for public comment. The Board will receive reports from various committees, take action on 11 petitions for declaratory orders, seven ALJ proposals for decision, and 15 proposed board orders. The Board will hold a work session on May 24 to provide input into the Legislative Appropriations Request (LAR) for the agency.

**Contact:** Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 305-6811.

**Filed:** May 3, 1996, 1:19 p.m.

TRD-9606120

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**Texas Board of Occupational Therapy Examiners**

**Monday, May 12, 1996, 9:30 a.m.**

333 Guadalupe Street, Suite 2-510

Austin

Rules Committee

**AGENDA:**

I. Call to Order

II. Discussion of changes in policy by the National Board for Certification in Occupational Therapy (formerly known as AOTCB, the American Occupational Therapy Certification Board), and the implications of those changes for Occupational Therapy licensure in Texas.

III. Discussion and possible action on proposed rule changes: Chapter 362, Definitions; Chapter 364, Requirements for Licensure; Chapter 365, Types of Licenses; Chapter 366, Application for Licensure; Chapter 369, Display of License; Chapter 370, License Renewal; Chapter 371, Inactive/Retiree Status; Chapter 373, Supervision; Chapter 374, Disciplinary Actions/Complaints/Code of Ethics; Chapter 375, Fees; Chapter 387, Administrative Hearings; and Chapter 389, Petition for Adoption of Rules.

Adjournment

**Contact:** Alicia Dimmick Essay, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942, (512) 305-6900.

**Filed:** May 3, 1996, 3:40 p.m.

TRD-9606146

## **Texas State Board of Plumbing Examiners**

**Monday, May 13, 1996, 9:30 a.m.**

929 East 41st Street

Austin

Board

AGENDA:

1. Roll call-9:30 a.m.; 2. Recognize visitors; 3. Public comment-9:35 a.m.; 4. Recognition of former Board Members; 5. Consider approval of the minutes of the March 20, 1996 Board Meeting; 6. ICBO request board accept ICBO PI certification for Board PI examination requirements; 7. Russ Chaney, IAPMO; 8. Hear Committee reports: a. Continuing Education; b. Code; c. Enforcement; d. Examination; e. Legislative; f. Medical Gas; g. Personnel; h. Rules Review; i. Water Supply Protection Specialist; 9. Attorney General's Report; 10. Field/Citation Report; 11. Examination Report; 12. Report on impact created by changing apprenticeship training requirements from 2 to 4 years; 13. Report on impact of High School Diploma or GED requirements for examinations; 14. Discussion of GED requirement on Journeyman Examination; 15. Consideration and possible approval or denial of hardship cases; 16. Fiscal Department; 17. Administrator's Report; 18. Staff travel requests; 19. Board Member report on AG Government Law and Liability Conference; 20. Discussion of election of officers; 21. Announcement of next regularly scheduled Board Meeting; 22. Adjournment.

**Contact:** Mary Lou Lane, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145, Ext. 222.

**Filed:** May 3, 1996, 11:17 a.m.

TRD-9606111



## **Texas Department of Public Safety**

**Friday, May 17, 1996, 10:30 a.m.**

DPS Regional Office, 2405 South Loop 250 West

Midland

Public Safety Commission

AGENDA:

Approval of minutes

Budget matters

Internal audit report

Personnel matters

Pending and contemplated litigation

Real Estate matters

Public comment

Miscellaneous and other unfinished business

Consideration in previously held discharge appeal hearing of DPS Employee Michael Young

**Contact:** James Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 424-2000, Ext. 3700.

**Contact:** May 2, 1996, 9:59 a.m.

TRD-9606049



## **Railroad Commission of Texas**

**Tuesday, May 14, 1996, 9:30 a.m.**

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the attached agenda. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in Executive Session on any items listed above as authorized by the Open Meetings Act.

**Contact:** Lindil C. Fowler, Jr., P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

**Filed:** May 3, 1996, 10:33 a.m.

TRD-9606108



## **Texas Real Estate Commission**

**Monday, May 13, 1996, 8:30 a.m.**

Conference Room 235, TREC Headquarters Office, 1101 Camino La Costa

Austin

Education Committee

AGENDA:

Call to order; staff presentation and discussion on overview of the provisions of Texas Civil Statutes, Article 6573a, and TREC rules relating to precicensing sales and broker courses; Staff presentation and discussion on overview of the provisions of Texas Civil Statutes, Article 6573a, and TREC rules relating to mandatory continuing education (MCE); Staff presentation and discussion on overview of the procedure related to approval of MCE providers; Staff presentation and discussion on comments received from the public on TREC education concerns and problems; Discussion of consumer education seminars; Discussion of goals, objectives and focus of the committee.

For ADA assistance, call Nancy Guevremont, at (512) 465-3923 at least two days prior to meeting.

**Contact:** Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

**Filed:** May 3, 1996, 2:44 p.m.

TRD-9606133

**Monday, May 13, 1996, 9:00 a.m.**

Conference Room 236B, TREC Headquarters Office, 1101 Camino La Costa

Austin

Investment Committee

AGENDA:

The committee will discuss the inspection recovery fund investment policy for possible recommendations to the full commission.

For ADA assistance, call Nancy Guevremont, at (512) 465-3923 at least two days prior to meeting.



**Contact:** Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

**Filed:** May 3, 1996, 2:44 p.m.

TRD-9606134

**Monday, May 13, 1996, 9:30 a.m.**

Conference Room 235, TREC Headquarters Office, 1101 Camino La Costa

Austin

**AGENDA:**

Call to order; minutes of April 1, 1996 Commission meeting; staff reports for March 1996; committee reports; comments from visitors; discussion of: (a) amendment to 22 TAC §535.300, concerning advertising by residential rental locators; (b) amendment to 22 TAC §535.91, concerning renewal applications: discussion and possible action to approve strategic plan; executive session to discuss pending litigation pursuant to §551.071, Texas Government Code and to discuss evaluation of the administrator pursuant to §551.074, Texas Government Code; discussion and possible action to authorize payments from recovery funds; discussion and possible action on evaluation of administrator; discussion and possible action regarding attendance at ARELLO meeting; discussion and possible action on investment training offered by the Office of the Governor; discussion and possible action to approve lead-based paint contract addendum; discussion and possible action to approve education providers, courses or instructors; consideration of complaint information concerning; Mickey Ramone Wentz; Shannon Kay Armstrong; Owens Realty, Inc.; Norberto Sanchez; Angel Luis Sanchez; Elizabeth Jo Guillot; Mann Home Builders, Inc.; George M. Crowson; Motion for rehearing, Probation and Modification in the Matter of James Ray Owens, Hearing Number 96-11-950487; entry of orders in contested cases; scheduling of future meetings.

For ADA assistance, call Nancy Guevremont, at (512) 465-3923 at least two days prior to meeting.

**Contact:** Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

**Filed:** May 3, 1996, 2:42 p.m.

TRD-9606132

**Texas County and District Retirement System**

**Thursday, May 9, 1996, 1:00 p.m.**

Doubletree Guest Quarters Hotel, 303 West 15th Street

Board of Trustees

**AGENDA:**

1. Open meeting.
2. Enter into executive session to discuss and consider matters relating to the sale of real property.
3. Close executive session.
4. Consider and act on sale of office building and construction and furnishing of and relocation to alternative office site.
5. Adjourn.

**Contact:** Terry Horton, 901 MoPac Expressway South, Barton Oaks Plaza IV, Austin, Texas 78746, (512) 328-8889.

**Filed:** May 1, 1996, 10:43 a.m.

TRD-9606002

**Sabine River Compact Administration**

**Friday, June 7, 1996, 9:30 a.m.**

Omni Royal Orleans, 621 St. Louis Street

New Orleans

**AGENDA:**

Call to order, approval of minutes, report of chairman, report of secretary, report of treasurer, report of committees, unfinished business, new business and adjournment.

**Contact:** Mary H. Gibson, Route 1, Box 780, Many, Louisiana 71449, (318) 256-4112.

**Filed:** May 6, 1996, 9:51 a.m.

TRD-9606189

**Texas Senate**

**Wednesday, May 15, 1996, 10:00 a.m.**

1725 West Front, Tyler Rose Center, Bluebonnet Room

Tyler

Juvenile Justice and Child Support (Interim)

**AGENDA:**

- I. Call to order
- II. Roll call and opening remarks
- III. Committee business
- IV. Invited speakers
- V. Public testimony
- VI. Other business
- VII. Adjourn

**Contact:** Kimberly Koelzer, P.O. Box 12068, Austin, Texas 78711, (512) 463-0395.

**Filed:** May 3, 1996, 4:35 p.m.

TRD-9606156

**Texas State Soil and Water Conservation Board**

**Thursday, May 16, 1996, 8:00 a.m.**

Best Western Inn at Scott and White, 2625 South 31st Street, Board Room 5

Temple

**AGENDA:**

Minutes from March 27, 1996 board meeting; district director appointments; expenditure report for 8-month period ending April 30, 1996; 1996 Fiscal Year Subchapter H Technical Assistance Allocations and Regular Technical Assistance Allocations; Agency Strategic Plan; 1996 Annual Statewide Meeting of Soil and Water Conservation District Directors, September 16-18, Fort Worth, Texas; Conservation Awards Program; Review Revision of Basic and Supplemental Memorandum of Understanding with USDA; South Central Region NACD Meeting; Grazing Lands Conservation Initiative; USDA Implementation of FOCS; Implementation of 1996 Farm Bill; NRCS Grants to Districts Task Force; Public Information/Education Report; Board Member Travel Report; Senate Bill 503 Status

Report; Allocation of Senate Bill 503 Cost-Share Funds; Designation of Senate Bill 503 Program Areas; Section 319 Status Report; North Bosque River Activity Report; Texas Coastal Management Program; Corpus Christi Bay National Estuary Program; Galveston Bay Conference; Gulf of Mexico Program; Reports from Agencies and Guests; Human Resources Report; 1998-1999 Biennium Legislative Appropriation Request; Election of Officers Next Regular State Board Meeting-July 17, 1996.

**Contact:** Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, Tex-An (817) 820-1250.

**Filed:** May 6, 1996, 10:13 a.m.

TRD-9606195



## **Boards for Lease of State-owned Lands**

**Friday, May 10, 1996, 10:00 a.m.**

General Land Office, S.F.A. Building, 1700 North Congress Avenue, Room 831

Austin

Board for Lease of Texas Parks and Wildlife Department

AGENDA:

Approval of previous board meeting minutes; easement applications, Richland Creek Wildlife Management Area, Anderson.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

**Filed:** May 2, 1996, 12:03 p.m.

TRD-9606062



## **Sunset Advisory Commission**

**Tuesday, May 14, 1996, 9:00 a.m.**

1400 North Congress Avenue, Capitol Extension, Room E1.030

Austin

AGENDA:

Call to order, approval of minutes, commission decisions on: Adjutant General's Department, National Guard Armory Board-Presentation of staff reports and public testimony on: Texas Department of Transportation, Texas Turnpike Authority Automobile Theft Prevention Authority-Other business-Selection of next meeting date-Adjourn.

**Contact:** Susan Kinney, 1400 North Congress Avenue, Room E2.002 Capitol Extension, Austin, Texas 78701, (512) 463-1300.

**Filed:** May 3, 1996, 11:10 a.m.

TRD-9606110



## **Texas State Technical College System**

**Friday, May 10, 1996, 1:00 p.m.**

Texas State Technical College Brownwood Extension Center, 305 Booker, Building 1 Meeting A&B

Brownwood

Board of Regents

AGENDA:

Discussion and Review of the following TSTC Policy Committee minute orders and reports:

Committee of the Whole-1:00 p.m.

Policy Committee for Instruction and Student Services-1:05 p.m.

Policy Committee for Human Resources and Development-1:05 p.m.

Policy Committee for Facilities-2:05 p.m.

Policy Committee for Fiscal Affairs-2:35 p.m.

Committee of the Whole-3:30 p.m.

**Contact:** Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76750, (817) 867-4890.

**Filed:** May 2, 1996, 4:12 p.m.

TRD-9606081

**Friday, May 10, 1996, 1:25 p.m.**

Texas State Technical College Brownwood Extension Center, 305 Booker, Building 2 Room 211

Brownwood

Board of Regents Policy Committee for Human Resources and Development (Closed Meeting)

AGENDA:

The Board of Regents Policy Committee for Human Resources and Development will recess from open meeting into Closed Meeting in accordance with Chapter 551 of the Texas Government Code for the specific purpose provided in §§51.074 and §51.075 and will discuss the following:

Evaluation of performance of the Waco President and the East Texas Center Dean.

**Contact:** Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

**Filed:** May 2, 1996, 4:13 p.m.

TRD-9606083

**Saturday, May 11, 1996, 9:00 a.m.**

Texas State Technical College Brownwood Extension Center, 305 Booker, Building 1 Meeting A&B

Brownwood

Board of Regents

AGENDA:

The Board of Regents will discuss and act on the following minute orders: Policy on Student/Employee Organizations, contracts with member institutions of the Southwest Center for Advanced Technological Education for the delivery of curriculum via Distance Education, Advanced Polymer Manufacturing AAS Option in the manufacturing engineering technology program, requests for budget change, revised policy for internal audit function, revised policy for investments, student and family housing rental rates, service charges and deposits schedule for Fiscal Year 1997, schedule of emoluments for fiscal year 1997, renewal of agreement with Bobbie Moss, doing business as Casual Catering for Management and operation of a snack bar/grill at the student center at TSTC Waco, Ratify Executive Committee Actions of April 1, 1996: Right-of-Way Easement for Water Line to Serve Chrysler Technologies Airborne Systems (CTAS) Hangar, Easement for Sanitary Sewer Line to Serve Chrysler Technologies Airborne Systems (CTAS) Hangar, Right-of-Way Easement for Gas Line to Serve Chrysler Technologies Airborne Systems (CTAS) Hangar, Right-of-Way Easement for Process Waste Line to Serve Chrysler Technologies Airborne Systems

(CTAS) Hangar, Wastewater Disposal Agreement Between the City of Waco and TSTC Waco, Award a Contract for HVAC Controls Upgrades at Student Services Building (Building A) and Allied Health Building (Building L) at TSTC Harlingen, Lease Agreement Between the City of Sweetwater and TSTC Sweetwater for Administration Building, Lease Agreement Between the City of Sweetwater and TSTC Sweetwater for a Lake Lot at Lake Sweetwater, Employee Holiday Schedule Fiscal Year 1997, policy for Safety Program, Policy for Hazard Communication Program, Resolution of Appreciation for Steve Malbrough, TSTC Minute Orders to be Rescinded, Salary Adjustment for Interim Chancellor.

**Contact:** Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

**Filed:** May 2, 1996, 4:13 p.m.

TRD-9606084

**Saturday, May 11, 1996, 9:00 a.m.**

Texas State Technical College Brownwood Extension Center, 305 Booker, Building 1 Meeting A&B

Brownwood

Board of Regents

Revised Agenda

**AGENDA:**

Add Item:

Annual Operating Plan for the TSTC Foundation for Fiscal Year 1996-1997

**Contact:** Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

**Filed:** May 3, 1996, 4:42 p.m.

TRD-9606171

**Saturday, May 11, 1996, 9:15 a.m.**

Texas State Technical College Brownwood Extension Center, 305 Booker, Building 1 Meeting A&B

Brownwood

Board of Regents (Closed Meeting)

**AGENDA:**

Following Item VII of the agenda and shown as Item VIII the Board of Regents will recess from open meeting into Closed Meeting in accordance with Chapter 551 of the Texas Government Code for the specific purpose provided in §§551.017, 551.074, and 551.075 and will discuss the following:

Maria Christina Lucio vs. Texas State Technical College and J. Gilbert Leal

James A. Buie vs. TSTC

Truett W. Bates vs. Texas State Technical College, et al

Discuss Chancellor search process, attributes desired in Chancellor, and potential candidates for Chancellor Consider and discuss procedure for selection of permanent chancellor

Salary Adjustment for Interim Chancellor

Evaluation of performance of the Waco President and the East Texas Center Dean

**Contact:** Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

**Filed:** May 2, 1996, 4:13 p.m.

TRD-9606085

## **Texas Tech University Health Sciences Center and Texas Tech University**

**Friday, May 10, 1996, 8:00 a.m.**

Board of Regents Meeting Room, Administration Building, Campus Lubbock

Executive Session

**AGENDA:**

Approve February 9, 1996 minutes. Additionally, approve minutes of special meetings held on February 23, 1996, March 8, 1996 and April 3, 1996.

Consider.

Texas Civil Statutes, Government Code 551.071-Consultation with attorney regarding pending and contemplated litigation.

Texas Civil Statutes, Government Code 551.072-Consideration of the value and method of marketing University owned real property.

Texas Civil Statutes, Government Code 551.073-Consideration of prospective gifts to the University.

Texas Civil Statutes, Government Code 551.075-To receive information from University employees.

**Contact:** Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

**Filed:** May 2, 1996, 11:51 a.m.

TRD-9606058

**Friday, May 10, 1996, 10:30 a.m. (or following Executive Session)**

Board of Regents Committee Room, Administration Building, Campus

Amarillo

Academic Student and Clinical Affairs

**AGENDA:**

Approve February 9, 1996 minutes. Also, approve minutes of special meetings held on February 23, 1996, March 8, 1996 and April 3, 1996. Consider:

Texas Tech University Health Sciences Center: Approval of State Strategic Plan for TTUHSC; approval of contract between TTUHSC and UMC (Lubbock, Texas) to provide funding for cardiovascular surgery services; authorization for President to execute contract between TTUHSC and International Telemedicine, Inc. (Houston, Texas), to provide a strategic plan for development of a Texas Telemedicine Network; approval of renewal contract between TTUHSC and El Paso County Hospital District, doing business as R. E. Thomason General Hospital (El Paso, Texas) to provide funding for resident, medical and administrative services; approval of renewal contract between TTUHSC and Lubbock County Hospital District, doing business as University Medical Center (Lubbock, Texas) to provide funding for resident services; approval of renewal contract between TTUHSC and Amarillo Hospital District doing business as Northwest Texas Hospital (Amarillo, Texas) to provide funding for resident services; approval of renewal contract between TTUHSC and Department of Veterans Affairs Medical Center (Amarillo, Texas) to provide funding for resident services; approval of amendment to contract between TTUHSC and Lubbock Regional MHMR Center (Lubbock, Texas) to provide additional funding for psychiatric services; approval of amendment to agreement between TTUHSC and Bender Terrace (Lubbock, Texas) to provide nursing education services; authorization for President to execute amendment to contract between TTUHSC and Biomedical Applications of

Texas, Inc. (Waltham, Massachusetts) to provide medical directorship services; approval of plan to reorganize departments of School of Allied Health; granting of academic tenure with appointment; designation of Murray Professional; and ratification: conferral of degrees-May 18, 1996 commencement and commissioning of peace officers. Reports.

Texas Tech University: Approval of State Strategic Plan for TTU; authorization for President to enter into a contract for purchase of a Student information system and to implement student information system; approval of revisions to Part IX, Code of Student Conduct of Student Affairs Handbook, effective August 1, 1996; granting of academic tenure with appointment; granting of continuing appointment to librarians and archivists; and ratification of administrative actions related to academic, student and clinical affairs: conferral of degree-May 10, 1996 commencement, leaves of absence, establish Cooperative Institute-Convective Meteorology Studies and commissioning of peace officers. Reports.

**Contact:** Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

**Filed:** May 2, 1996, 11:51 a.m.

TRD-9606059

**Friday, May 10, 1996, 10:30 a.m. (or following Executive Session)**

Board of Regents Meeting Room, Administrative Building, Campus  
Lubbock

Finance and Administration

**AGENDA:**

Approve February 9, 1996, minutes. Also, approve minutes of special meetings held on February 23, 1996, March 8, 1996 and April 3 1996. Consider:

Texas Tech University Health Science Center: TTUHSC Operating Budget FY 1997; approval of fees to be assessed and charged to regularly enrolled and prospective students beginning with fall semester, 1996; approval of revisions to BOR Policy 04.03, Audits; approval and adoption of amendments to BOR Policy, 05.05, Investment Policy Statement for Endowment Funds; approval to contract with a professional investment management firm for investment of certain endowment and other institutional funds; establishing premium rates for Risk Classes 1 through 5 for years covering September 1, 1996-August 31, 1997; and approval of request by donor to modify endowment. Reports.

Texas Tech University: TTU Operating Budget to FY 1997; approval of fees to be assessed and charged to regularly enrolled and prospective students beginning with fall semester, 1996, except as noted; approval of revisions to BOR Policy 04.03, Audits; approval of revisions to BOR Policy 05.06, Investment Policy Statement for Endowment Funds; approval to contract with a professional investment management firm for investment of certain endowment and other institutional funds; approval of TT Honors Scholarship Quasi Endowment; authorization of Pres. to review and execute flexible contractual agreements between TTU and natural gas suppliers and transportation vendors; approval of a contract between TTU and City of Lubbock to provide campus bus service; approval to award a contract for printing of University Dally for September 1, 1996-August 31, 1998; award of a concession contract for canned drinks and snacks; award of a concession contract for UC to provide canned drinks and snacks, and to offer cases for resale; award of contract for operation of a banking facility in UC, TTU; award of a contract to provide coin operated laundry service to residence halls; acceptance of gift-in-kind with value in excess of \$25,000; acceptance of gift-in-kind with value in excess of \$25,000; and budget adjustments. Reports.

**Contact:** Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

**Filed:** May 2, 1996, 11:51 a.m.

TRD-9606060

**Friday, May 10, 1996, 10:30 a.m. (or following Executive Session)**

Academic Affairs Conference Room, 104 Administrative Building,  
Campus

Lubbock

Facilities

**AGENDA:**

Approve February 9, 1996 minutes. Also, approve minutes of special meetings held on February 23, 1996, March 8, 1996 and April 3, 1996. Consider:

Texas Tech University Health Sciences Center: Authorization for the President to review and sign an agreement between TTUHSC and Texas Commerce Bank N.A. to lease space for the creation of a medical clinic in El Paso, Texas. Reports.

Texas Tech University: Authorization to initiate the planning process for an arena for TTU; renaming the Electrical Engineering Annex Building to the Charles A. Bassett, II Laboratories; authorization for the President to execute a listing agreement with a real estate brokerage firm for the marketing and sale of the Pyramid Plaza Office Building; authorization for President or his designee to execute a contract with a farm and ranch real estate brokerage firm for the marketing and sale of the Proctor Ranch located in Hartley and Oldham Counties, Texas; authorization for the President to proceed with planning, establish a project budget, approval of the schematic design, and authorization for the President to proceed with contract documents and the receipt of bids, and to award a construction contract for the renovation and air conditioning of the Engineering and Technology Lab Building; and ratification: acceptance date for the Dan Law Field-Phase IV, Stadium Seating, acceptance date for the Fuller Track-renovation, and approval to execute contract for scoreboard between First USA Bank and TTU. Reports.

**Contact:** Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

**Filed:** May 2, 1996, 11:52 a.m.

TRD-9606061

**Friday, May 10, 1996, 1:00 p.m.**

Board of Regents Meeting Room, Administration Building, Campus  
Lubbock

Board of Regents

**AGENDA:**

Action and/or reports on:

Minutes; Academic, Student and Clinical Affairs; Finance and Administration; Facilities; and President's Report.

**Contact:** Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

**Filed:** May 2, 1996, 11:49 a.m.

TRD-9606057

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## The University of Texas at Austin

Thursday, May 9, 1996, 10:00 a.m.

21st and San Jacinto Streets, Belmont Hall, Centennial Room  
Austin

Council for Intercollegiate Athletics for Women

### AGENDA:

Joint meeting with Faculty Council Committee on Athletics and Academics

I. Call to order

II. Approval of minutes of the previous meeting

III. New business

IV. Announcements/information reports

V. Executive session

Personnel matters relating to appointment, employment, evaluation, assignment, duties, discipline, or dismissal of officers or employees-§551. 074 of the Texas Government Code.

VI. Adjournment

**Contact:** Jody Conradt, Belmont Hall 718, Austin, Texas 78712-1286, (512) 471-7693.

**Filed:** May 3, 1996, 4:18 p.m.

TRD-9606151

## Regional Meetings

### Meetings Filed May 1, 1996

**The Angelina and Neches River Authority** ANRA Board of Directors met in the Regency Room, Suite B-Stephen F. Austin State University, Nacogdoches, May 7, 1996, at Noon. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795. TRD-9606001.

**The Austin Travis County MHMR Center** Board of Trustee Human Resources Committee met at 1700 South Lamar Boulevard, #1, Suite 102A, Austin, May 8, 1996, at 4:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9606028.

**The Bosque County Central Appraisal District** Appraisal Review Board met at 202 South Highway 6, Meridian, May 8, 1996, at 9:00 a.m. Information may be obtained from Janice Henry, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9606017.

**The Valley Development Council** Brazos Valley Regional Advisory Committee on Aging met at 1706 East 29th Street, Bryan, May 7, 1996, at 2:30 p. m. Information may be obtained from Roberta Lindquist, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4224. TRD-9606025.

**The Deep East Texas Council of Governments** Public Meeting for Selection of Minority Rep to Serve on the DETCOG Board will meet at the DETCOG-Lufkin Office, 118 South First, Lufkin, Angelina County, May 13, 1996, at 5:30 p.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Jasper County, Texas 75901, (409) 384-5704. TRD-9606018.

**The Grand Parkway Association** Board of Directors met at 5757 Woodway, 140 East Wing, Houston, May 9, 1996, at 8:15 a.m. Information may be obtained from Jerry L. Coffman, 5757 Woodway, 140 East Wing, Houston, Texas 77057, (713) 782-9330. TRD-9606023.

**The Hays County Appraisal District** Appraisal Review Board met at 21001 North IH-35, Kyle, May 7, 1996, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle, Texas 78640, (512) 268-2522. TRD-9606012.

**The Lavaca County Central Appraisal District** Agricultural Appraisal Advisory Board met at 113 North Main Street, Hallettsville, May 7, 1996, at 9:00 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9606026.

**The Lometa Rural Water Supply Corporation** Board of Directors met at 506 West Main Street, Lometa, May 7, 1996, at 4:45 p.m. Information may be obtained from Levi G. Cash or Tina L. Hodge, P.O. Box 158, Lometa, Texas 76853, (512) 752-3505. TRD-9606003.

**The North Plain Ground Water Conservation District Number Two** Regular Board Meeting met at 603 East First, Dumas, May 7, 1996, at 10:00 a.m. Information may be obtained from Richard S. Bowers, P.O. Box 795, Dumas, Texas 79029-0795, (806) 935-6401. TRD-9606013.

**The Tyler County Appraisal District** Board of Directors will meet at 806 West Bluff, Woodville, May 14, 1996 at 10:00 a.m. Information may be obtained from Tyler CAD, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9606020.

### Meetings Filed on May 2, 1996

**The Brazos Valley Development Council** Executive Committee Meeting met at 1706 East 29th Street, Bryan, May 8, 1996, at 1:30 p.m. Information may be obtained from Mary Stevens, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9606055.

**The Dewitt County Appraisal District** Appraisal Review Board will meet at 103 Bailey Street, Cuero, May 16, 1996, at 9:00 a.m. Information may be obtained from Kay Rath, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9606050.

**The Gonzales County Appraisal District** Agricultural Advisory Board will meet at 928 St. Paul, Gonzales, May 10, 1996, at 10:00 a.m. Information may be obtained from Connie Barfield or Glenda Strackbein, 918 St. Paul, Gonzales, Texas 78629, (210) 672-2879 or Fax: (210) 672-8345. TRD-9606088.

**The Houston-Galveston Area Council** Transportation Department will meet at 3555 Timmons Lane, Houston, May 21, 1996, at 5:30 p.m. Information may be obtained from Kathy H. Lang, 3555 Timmons Lane, Suite 500, Houston, Texas 77227, (713) 993-4501. TRD-9606040.

**The Hunt County Appraisal District** Board of Directors met at 4801 King Street, Greenville, May 9, 1996, at Noon. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, (903) 454-3516. TRD-9606067.

**The Middle Rio Grande Development Council** Texas Review and Comment System met at MRGDC Operations Conference Room, 209 North Getty Street, Uvalde, May 8, 1996, at 4:00 p.m. Information may be obtained from Erma Alejandro, 209 North Getty Street, Uvalde, Texas 78801, (210) 278-4151, Ext. 10 or Fax: (210) 278-2929. TRD-9606051.

**The Texas Municipal Power Agency (TMPA)** Board of Directors Workshop met at the Convention and Visitor Bureau, 715 University Drive East, College Station, May 8, 1996, at 6:30 p.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9606078.

**The Texas Municipal Power Agency (TMPA)** Audit and Budget Committee Meeting met at the Gibbons Creek Steam Electric Station, Administration Building, 2 1/2 Miles North of Carlos, Texas on

FM-244, Carlos, Grimes County, May 9, 1996, at 8:00 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9606079.

**The Texas Municipal Power Agency (TMPA)** Board of Directors Meeting met at the Gibbons Creek Steam Electric Station, Administration Building, 2 1/2 Miles North of Carlos, Texas on FM-244, Carlos, Grimes County, May 9, 1996, at 10:00 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9606081.

**The Nortex Regional Planning Commission** Executive Committee will meet at The Galaxy Center Building, #2 North Suite 200, 4309 Jacksboro Highway, Wichita Falls, May 16, 1996, at Noon. Information may be obtained from Dennis Wilde, P.O. Box 5144, Wichita Falls, Texas 76304, (817) 322-5281 or Fax: (817) 322-6743. TRD-9606052.

**The Northeast Texas Rural Rail Transportation District** Board met at 2821 Washington Street, Administrative Conference Room Greenville, Hunt County, May 7, 1996, at 4:00 p.m. Information may be obtained from Sue Ann Harting, P.O. Box 306, Commerce, Texas 75428-0306, (903) 450-0140. TRD-9606092.

**The Permian Basin Regional Planning Commission** Policy Advisory Committee met at 2910 La Force Boulevard, Midland, May 7, 1996, at 9:30 a.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9606056.



## Meetings Filed May 3, 1996

**The Angelina and Neches River Authority (Revised Agenda.)** ANRA Board of Directors met at the Regency Room, Suite B-Stephen F. Austin State University, Nacogdoches, May 7, 1996, at Noon. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795. TRD-9606122.

**The Austin Transportation Study** US 290-Loop 1 Task Force and Charge #2 Working Group Meeting met at the Municipal Annex Building, Second and Lavaca Street, First Floor Conference Room, #140, Austin, May 8, 1996, at 9:00 a.m. Information may be obtained from Michael R. Audlick, 301 West Second Street, Austin, Texas 78701, (512) 499-2275. TRD-9606142.

**The Barton Springs/Edwards Aquifer Conservation District** Board of Directors-Called Meeting met at 1124A Regal Row, Austin, May 6, 1996 at 3: 00 p.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, (512) 282-8441 or Fax: (512) 282-7016. TRD-9606121.

**The Carson County Appraisal District** Appraisal Review Board met at 102 Main Street, Panhandle, May 8, 1996, at 9:00 a.m. Information may be obtained from Donita Herber, Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9606139.

**The Central Plains Center for MHMR and San Antonio** Board of Trustees met at 208 South Columbia, Plainview, May 8, 1996, 6:00 p.m. Information may be obtained from Ron Trusler, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9606112.

**The Coleman County Water Supply Corporation** Board of Directors met at 214 Santa Anna Avenue, Coleman, May 8, 1996, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (512) 625-2133. TRD-9606107.

**The Deep East Texas Council of Governments** Board of Directors and Grants Application Review Committee Meeting will meet at 601 North Second Street, Lufkin Civic Center, Lufkin, Angelina County May 23, 1996, at 10:00 a. m. Information may be obtained from Walter G. Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9606119.

**The Denton Central Appraisal District** Appraisal Review Board will meet at 3911 Morse Street, Denton, May 15, 1996, at 9:00 a.m. Information may be obtained from Kathy Williams, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9606169.

**The Golden Crescent Private Industry Council** Exec/Plan/Youth Committee met at 2401 Houston Highway, Victoria, May 7, 1996, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9606150.

**The Hays County Appraisal District** Board of Directors met at 21001 North IH-35, Kyle, May 9, 1996, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle, Texas 78640, (512) 268-2522. TRD-9606113.

**The Hickory Underground Water Conservation District One** Board of Advisors met at 2005 South Bridge Street, Brady, May 9, 1996, at 7:00 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9606116.

**The Hockley County Appraisal District** Appraisal Review Board met at 1103 Houston, Levelland, May 9, 1996, at 7:00 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9606155.

**The Manville Water Supply Corporation** Board Meeting met at Spur 277, Board Room, Coupland, May 9, 1996, at 7:00 p.m. Information may be obtained from Tony Graf, Spur 277, Coupland, Texas 78615, (512) 272-4044. TRD-9606141.

**The Montague County Tax Appraisal District** Board of Directors met at 312 Rusk Stret, Montague, May 8, 1996, at 5:00 p.m. Information may be obtained from Wanda Russell, 312 Rusk Street, Montague, Texas 76251, (817) 894-2081. TRD-9606140.

**The Sulphur-Cypress Soil and Water Conservation District #419** met at 1809 West Ferguson, Suite D, Mt. Pleasant, May 9, 1996, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9606114.



## Meetings Filed May 6, 1996

**The Comal Appraisal District** Appraisal Review Board will meet at 178 East Mill Street, #101, New Braunfels, June 4, 1996, at 8:30 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9606216.

**The Comal Appraisal District** Appraisal Review Board will meet at 178 East Mill Street, #101, New Bruanfels, June 5-6, 1996, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9606217.

**The Comal Appraisal District** Appraisal Review Board will meet at 178 East Mill Street, #101, New Bruanfels, June 10-13, 1996, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9606218.

**The Comal Appraisal District** Appraisal Review Board will meet at 178 East Mill Street, #101, New Bruanfels, June 18-20, 1996, at 8:30 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9606219.

**The Comal Appraisal District** Appraisal Review Board will meet at 178 East Mill Street, #101, New Bruanfels, June 25-27, 1996, at 9:00 a.m. Information may be obtained from Lynn E. Rodgers, P.O.



Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9606220.

**The Comal Appraisal District** Appraisal Review Board will meet at 178 East Mill Street, #101, New Braunfels, June 9-12, 1996, at 8:30 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9606221.

**The Comal Appraisal District** Appraisal Review Board will meet at 178 East Mill Street, #101, New Braunfels, July 16-18, 1996, at 8:30 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9606222.

**The Comal Appraisal District** Appraisal Review Board will meet at 178 East Mill Street, #101, New Braunfels, July 19, 1996, at 8:30 a.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9606223.

**The Dallas Central Appraisal District** Appraisal Review Board Meeting will meet at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, May 17, 1996, at 10:00 a.m. Information

may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9606174.

**The Education Service Center, Region One** Region One ESC Board met at 1/4 Mile North Highway 1847, Los Fresnos, May 9, 1996, at 6:30 p.m. Information may be obtained from Dr. Roberto Zamora, 1900 West Schunior, Edinburg, Texas 78539, (210) 383-5611. TRD-9606179.

**The Texas Political Subdivisions Joint Self-Insurance Funds (Emergency Meeting.)** Board of Trustees met at the Dallas Medalion Hotel, Dallas, May 9, 1996, at 10:00 a.m. The reason for emergency: To discuss the fees between AIMT and TPS. Information may be obtained from James R. Gresham, P.O. Box 803356, Dallas, Texas 75380, (214) 392-9430. TRD-9606196.

**The San Antonio River Authority** Board of Directors will meet at 100 East Guenther Street, Boardroom, San Antonio, May 15, 1996, at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9606191.



The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

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## Texas Department on Aging Notice of Request for Proposals

The Texas Department on Aging is requesting proposals from Texas area agencies on aging and Texas Elderly Nutrition Program providers who contract with one of area agencies on aging for Title III, Older Americans Act funds to provide congregate and/or home-delivered meals. The funding source is the Philip Morris Companies, Inc. Helping the Helper Program. All submissions must be postmarked no later than August 30, 1996.

**Purpose.** To stimulate innovation in nutrition services through the network of current providers so that programs can better meet the special nutritional needs of older citizens.

The grant categories are as follows:

**Category One. Ethnic meals/Outreach:** The provision of appropriate meal service to the culturally diverse populations of elderly in Texas deserves special attention in our efforts to target services to the most-in-need clients. The goals are: (a) to develop a set of ethnic menus that addresses food preferences of minority populations to encourage participation in nutrition programs and can be utilized by other providers across the state; and (b) to implement new (or adapt old) models to reach and feed the many minority groups of elder Texans needing nutritional support.

**Category Two. Therapeutic meals:** As the population of elders requiring meal service at home becomes increasingly frail, the need for therapeutic meals has increased. This grant category encourages the exploration of models and products to introduce this type of service as a standard for community nutritional care. The goal is to develop an ongoing model system which can be replicated in other areas of the state.

**Category Three. Quality improvement:** Due to funding constraints, the focus over the last few years has been on lowering the cost of meals. Maintaining or improving the quality of the meals and nutritional services is an essential priority for providing effective services which meets the needs of the seniors being served. The goal is to develop innovative model programs to achieve quality improvements on the local level, which include "customer driven" initiatives such as client satisfaction surveys and participant councils.

**Terms and Criteria.** Funds will be awarded to nutrition service providers by an RFP process and will be divided among at least two of the grant categories outlined previously. Plans are to make available two to eight grants, ranging from \$5,000 to \$20,000. Applicant agencies will submit a time line and a budget for their proposed project

which will be used to determine the amount of the funds awarded to each project. Grant money cannot be used for building construction, general operating expenses, or raw food costs. Project administration, if appropriate, is allowable to a maximum of 10% of the grant. Grantees must comply with all program performance requirements as referenced in TAC Chapter 254.13, relating to the Department's responsibilities for imposing sanctions.

**Evaluation Process.** Applicants will be chosen by an evaluation committee consisting of human service, education, and nutrition professionals from Texas who are not directly associated with the senior nutrition network of providers in Texas. Projects will be evaluated on creativity, impact on individual clients and the community, collaboration with traditional and non-traditional partners, plans for continuation of the project beyond the period of the model project, and the ability of other programs to replicate this project in other areas in Texas.

**Agency Contact Person.** For additional information or for copies of the complete RFP, please contact Annette Van de Werken at the Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Issued in Austin, Texas, on May 3, 1996.

TRD-9606106      Mary Sapp  
Executive Director  
Texas Department on Aging

Filed: May 3, 1996

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## Texas Department of Agriculture Request for Proposals

Pursuant to the Texas Agricultural Code, Chapter 45, 74th Regular Legislative Session, 1995. The Texas Department of Agriculture (the department) is requesting proposals for the Texas-Israel Exchange Research and Development (TIE) Grant Program. The TIE grant program operates through a cooperative agreement between the Ministry of Agriculture of Israel and the department and was established to support agricultural research and development as well as trade and business relations between Texas and Israel. The implementing agency for the Ministry of Agriculture of Israel is the Agricultural Research Organization (ARO).

Grant proposals will be accepted from higher education institutions, government research programs and other private and public groups who focus on research. Grants must involve cooperative research between Texas and Israeli scientists and should address agricultural production under semi-arid and water-shortage conditions. Priority will be given to environmentally friendly projects address-

ing; irrigation and use of recycled wastewater and brackish water; new crops and varieties that are efficient water users and adaptable to semi-arid conditions; intensive crop and livestock production; greenhouse production, equipment and technologies; natural resource management emphasizing water; and innovative energy sources for agricultural production and improved energy use. Research proposals submitted should be for a one year period. However, grant projects may be extended an additional year and provided additional funding upon approval by a technical review committee and the TIE Fund Board. The total budget requested per each Texas project should not exceed \$60,000. Of the proposals submitted, preference will be given to proposals related to research projects that are currently funded through TIE or to the full proposals submitted pursuant to the request for proposal published in the November 15, 1994 issue of the *Texas Register* (19 TexReg 9041) but not funded. Proposals, not previously submitted will be considered, however, they must be of superior quality to warrant funding. Proposals previously funded must also detail the status of the present project and how additional funding will benefit the project. Proposals will be evaluated based on the criteria below, technical review, and the Texas-Israel Exchange Boards in Texas and Israel who will jointly consent to the projects.

Each proposal must include the following criteria: (1) a cover page including the title, names of the principal researchers and other participating researchers, and the cooperating institution accompanied by the signatures of the officers authorizing their participation; (2) a table of contents; (3) an abstract of approximately 200 words, on one page, including the title, definition of the research problem, specific objectives and importance of the research, the plan and methodology, and expected contribution of the research as it pertains to agriculture; (4) a detailed description including the title; background, description of problem, hypothesis and preliminary research; objectives and importance of the project, with emphasis on the claimed novelty of the research; a detailed description of the research plan; a detailed description of the cooperative arrangements to be employed in conducting the work; a description and contribution of expected results; the facilities and equipment to be made available to the project; a relevant bibliography relating to the research area; a professional biography of the researchers; a detailed budget, itemizing at a minimum, personnel services, operating expenses to include the categories of supplies, computer services, in-country and foreign travel, and non-expendable equipment. Applicant must provide at least 50% of the total project costs as matching funds which may be federal, state, or private. For overhead costs, an allowance is made for 20% of total direct costs.

The recipient institutions must agree to be responsible for all costs exceeding the grant award, and that the project will be executed once a grant is awarded, without claims for additional financial support by the TIE funds. Finished project summaries will be public information.

Proposals should be submitted to Ms. Sheri Land, Coordinator for Funding, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Please contact Sheri Land at (512) 463-8536 with any questions you may have. Proposals must be received no later than 5:00 p.m. June 10, 1996. The announcement of grant awards will be made by no later than July 22, 1996.

Issued in Austin, Texas, on May 6, 1996.

TRD-9606193

Dolores Alvarado Hibbs  
Deputy General Counsel  
Texas Department of Agriculture

Filed: May 6 1996

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## Texas Commission on Alcohol and Drug Abuse and Texas Department of Mental Health and Mental Retardation

### Notice of Amendment to Request for Proposals

Texas Commission on Alcohol and Drug Abuse (TCADA) under the authority of the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461, and the Texas Department of Mental Health and Mental Retardation (TDMHMR) under the authority of the Texas Health and Safety Code, Title 7, Subtitle A, Chapter 533, are jointly issuing an amendment to the Request for Proposals (RFP) for the Dual Diagnosis (Mental Illness/Chemical Dependency) Pilot Project, which appeared in the March 26, 1996, issue of the *Texas Register* (21 TexReg 2495).

The amended closing date for receipt of applications by TCADA and TDMHMR is 5:00 p.m. on May 17, 1996.

The amended funding available is \$210,000.

Contact Patrick Haney, Interagency Dual Diagnosis Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, (512) 206-4763.

Issued in Austin, Texas, on May 1, 1996.

TRD-9605989

Sharon Logan  
Interim Executive Director  
Texas Commission on Alcohol and Drug  
Abuse and  
Ann K. Utley  
Chair, Texas MHMR Board  
Texas Department of Mental Health and  
Mental Retardation

Filed: May 1, 1996

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## Comptroller of Public Accounts

### Notice of Intent to Amend Consultant Contract

In accordance with the provisions of Chapter 2254, Subchapter B, Texas Government Code, the Comptroller of Public Accounts announces this notice of its intent to amend an existing consultant contract, unless a better proposal is received.

The consultant contract to be amended is with Coopers and Lybrand L.L.P., and relates to the review of facilities component of the Comptroller's management and performance review of the Houston Independent School District (ISD). The services to be provided pursuant to the amendment would expand the scope of the facilities segment of the Houston ISD review to include a sample needs assessment of Houston ISD facilities and the development of a comprehensive plan for addressing the current and future facilities needs of the District. The required services are of the same type as those currently being provided to the Comptroller's office by Coopers and Lybrand L.L.P. under

the existing contract. The Comptroller's office intends to amend its contract with Coopers and Lybrand L.L.P., to provide the required services, unless a better proposal is received. The anticipated budget for the required services is \$50,000. Consultants are invited to submit proposals to provide the required services. Proposals must be received in the Senior Legal Counsel's Office no later than 4:00 p.m. on Monday, May 20, 1996, 111 E. 17th Street, Room 113, Austin, Texas 78774. Proposals received after this time and date will not be considered.

Consultants intending to submit proposals in response to this invitation should contact Tres Lorton, Senior Legal Counsel, Comptroller of Public Accounts, either by telephone at (512) 463-4813 or in writing at Post Office Box 13528, Austin, Texas 78711. The Comptroller's office will award the required services following an evaluation by qualified Comptroller staff of all proposals submitted in response to this invitation.

Issued in Austin, Texas, on May 3, 1996.

TRD-9606148      Arthur F. Lorton  
Senior Legal Counsel  
Comptroller of Public Accounts

Filed: May 3, 1996

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## **Texas Education Agency**

### **Request for Applications Concerning Staff Development and Parent Training for Campus Deregulation and Restructuring to Improve Student Achievement Grant Program, School Year 1996-1997.**

Filing Authority. The availability of grant funds under Request for Application (RFA) #701-96-020 is authorized by the Texas Education Code, §7. 024.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from public school districts on behalf of an individual school campus that has demonstrated a commitment to campus deregulation and to restructuring educational practices and conditions by entering into a partnership with representatives of all of the following entities: school staff; parents of students; community and business leaders; school district officers; a nonprofit, community-based organization that has a demonstrated capacity to train, develop, and organize parents and community leaders into a large, nonpartisan constituency that will hold the school and the school district accountable for achieving high academic standards; and TEA. A separate application specific to the applying campus must be submitted for each campus for which the district is applying. Any campus that has been selected or is operating a 1995-1997 Staff Development and Parent Training for Campus Deregulation and Restructuring to Improve Student Achievement grant is not eligible to apply or to receive a 1996-1997 Staff Development and Parent Training for Campus Deregulation and Restructuring to Improve Student Achievement grant.

Description. The purpose of this initiative is to assist eligible individual public school campuses in implementing practices and procedures consistent with deregulation and school restructuring to improve student achievement and in identifying and training parents and community leaders who will hold the school and the school district

accountable for achieving high academic standards. Grants must be used for the training and development of school staff, parents, and community and business leaders in order that they understand and implement the: (a) academic standards and practices necessary for high academic achievement; (b) appropriate strategies to deregulate and restructure the school to improve student achievement; and (c) effective strategies to organize parents and community leaders into a large, nonpartisan constituency that will hold the school and the school district accountable for achieving high academic standards. No more than 20% of the total grant funds may be used to implement the academic standards and practices necessary for high academic achievement. No more than 25% of the total grant funds may be used to implement strategies developed by partners that are designed to enrich and extend student learning experiences outside of the regular school day. Grantees must demonstrate: (1) the development and implementation of a comprehensive plan to engage in on-going development and training of teachers, parents, and community leaders to (a) understand academic standards, (b) develop effective strategies to improve academic performance, and (c) organize a large constituency of parents and community leaders to hold the school and school district accountable for achieving high academic standards; (2) on-going progress in achieving higher academic performance; and (3) on-going progress in identifying, training, and organizing parents and community leaders who will hold the school and the school district accountable for achieving high academic standards.

Dates of Project. The Staff Development and Parent Training for Campus Deregulation and Restructuring to Improve Student Achievement Grant Program will be implemented during the 1996-1997 school year. Applicants should plan for a starting date of no earlier than September 1, 1996, and an ending date of no later than August 31, 1997.

Project Amount. Projects will be eligible for up to \$20,000 for the 1996-1997 school year.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. The TEA reserves the right to select from the highest ranking applications campuses whose total percent of identified students from low income families is 60% or higher or campuses whose total percent of students passing all tests taken on the 1994-1995 Texas Assessment of Academic Skills (TAAS) was below the state average. Campuses meeting the "low income" or TAAS criterion will be identified by consulting printouts provided by the Agency's Division of Technology Support.

The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of RFA #701-96-020 may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to the RFA number in your request.

Further Information. For clarifying information about the RFA, contact Kathleen Burke, Office of Operations and

Special Projects, Texas Education Agency, (512) 463-8306.

Deadline for Receipt of Applications. Applications must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m. Central Standard Time, Monday, July 8, 1996, to be considered.

Issued in Austin, Texas, on May 6, 1996.

TRD-9606188      Criss Cloudt  
Associate Commissioner for Policy Planning  
and Research  
Texas Education Agency

Filed: May 6, 1996

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**General Land Office**

**Request for Proposals—Texas Coastal  
Management Program Grants Program**

**INTRODUCTION**

The General Land Office, on behalf of the Coastal Coordination Council, is issuing this Request for Proposals to announce the potential availability of federal grant funds under the Texas Coastal Management Program (CMP).

Upon approval of the CMP by the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA), the State of Texas will become eligible for program implementation funds under the Coastal Zone Management Act (CZMA) (16 USC §1455). Federal approval of the CMP is expected in late September 1996. NOAA has asked the State to prepare an application for the program implementation funds. The Governor of the State of Texas has designated the General Land Office to receive and administer CZMA grants.

An initial federal grant to the State of approximately \$1 million is expected in October 1996. The Coastal Coordination Council, which oversees the implementation of the CMP, will review and evaluate proposals. The Council has pledged to pass through 90% of the available funds to eligible entities in the coastal zone to support projects that implement and/or advance the CMP goals and policies.

This document serves as the official guidance for submitting proposals to the Council for projects to be funded by this federal grant. Projects funded under this grant cycle (Grant Cycle #1) will start no earlier than October 1, 1996, and end no later than September 30, 1997.

**DEADLINE**

Grant proposals must be postmarked no later than midnight May 31, 1996, to be considered for funding under Grant Cycle #1. Hand-delivered grant proposals will be accepted until 5:00 p.m. on May 31, 1996. Hand-delivered proposals must be date- and time- stamped by the agency receiver. At the discretion of the Coastal Coordination Council, the grant deadline may be extended. Grant proposals must be mailed or hand-delivered to the Texas General Land Office, CMP Grants Program, Stephen F. Austin Building, Room 617, 1700 North Congress Avenue, Austin, Texas 78701-1495.

**ELIGIBLE ENTITIES**

The following entities are eligible to receive funds under the Texas CMP Grants Program.

1. Incorporated cities in the coastal zone
2. County governments in the coastal zone
3. State agencies
4. Public universities (including colleges and institutes of higher education)
5. Subdivisions of the state with jurisdiction in the coastal zone (e.g., navigation districts, port authorities, river authorities, and Soil and Water Conservation Districts with jurisdiction in the coastal zone)
6. Councils of governments and other regional governmental entities in the coastal zone
7. The Galveston Bay Estuary Program
8. The Corpus Christi Bay National Estuary Program and its successor(s)
9. Nonprofit organizations that are nominated by an eligible entity in categories 1-8 above. A nomination may take the form of a resolution or letter from a responsible official of an entity in categories 1-8. The nominating entity is not expected to financially or administratively contribute to the management and implementation of the proposed project.

**FUNDING PRIORITIES**

The following funding priorities have been established by the Council to ensure that projects funded under the CMP Grants Program further the goals and policies of the CMP. Grant applications must fit within one or more of the priorities to be eligible for funding. The priorities are not listed in order of preference. Grant applications will be ranked within the appropriate priority area to ensure that projects are compared with like projects.

1. Coastal Natural Hazards Response—Coastal natural hazards such as erosion and flooding are of great concern to coastal citizens and local governments. CMP monies can help enhance local government's ability to respond to coastal natural hazards by funding local planning and management efforts.
2. Critical Areas Enhancement—Wetlands, submerged aquatic vegetation, oyster reefs, and tidal sand and mud flats are widely recognized as being of great value. Unfortunately, because these coastal natural resources are susceptible to many threats, they are still being lost and degraded. CMP funds can be used to help state and local governments manage critical areas within their jurisdictions.
3. Shoreline Access—Texas has one of the strongest sets of laws in the nation protecting public access to the beach. However, increased shoreline development makes meeting the shoreline access needs of the public a challenge. CMP funds can be used to acquire access corridors and to provide improved shoreline services (e.g., off-beach parking, public bathrooms).
4. Waterfront Revitalization and Ecotourism Development—The Texas coast and coastal natural resources are valuable because they help fuel the economic engine of the state. CMP funds can be used to revitalize urban waterfronts to provide enhanced recreational opportunities and boost local economies and to develop local plans for ecotourism.
5. Permit Streamlining/Assistance and Governmental Coordination—A common complaint of coastal citizens and business persons is that the various levels of government

do not act in concert. This fragmentation and incoordination result in time delays and last-minute changes in projects that cost businesses and individuals money. CMP funds can be used to streamline permitting processes and to provide technological and technical assistance.

6. Information and Data Availability—Government efforts to improve resource management are often hampered by lack of basic information. CMP funds can be used to develop the baseline data and maps necessary for sound implementation of the CMP goals and policies.

7. Public Education and Outreach—Conveying the meaning of laws and regulations to the regulated public in an appropriate format rarely receives high priority. CMP funds can be used to develop and distribute public education materials such as user's manuals and to host public meetings, workshops, and conferences where technical information can be exchanged and training can be obtained.

#### PROPOSAL GUIDANCE

To obtain a copy of the Proposal Guidance, please contact Dorothy Browne at 1-800-85-BEACH (internet:dorothy.browne@glo.state.tx.us) or Diana Ramirez at (512) 463-5058 (internet:diana.ramirez@glo.state.tx.us). Written requests for the Proposal Guidance should be addressed to: CMP Grants Pro-

gram, Texas General Land Office, 1700 North Congress Avenue, Austin, Texas, 78701-1495. The Proposal Guidance is also available on the GLO's Home Page on the World Wide Web at :[http://www.glo.state.tx.us/res\\_mgmt/coastal/grants.html](http://www.glo.state.tx.us/res_mgmt/coastal/grants.html).

Issued in Austin, Texas, on May 3, 1996.

TRD-9606143 Gary Mauro  
Commissioner  
General Land Office

Filed: May 3, 1996

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## Texas Department of Health

### Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.







In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with Texas Regulations for Control of Radiation in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the Texas Regulations for Control of Radiation.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and

state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m., Monday-Friday (except holidays).

Issued in Austin, Texas, on April 30, 1996.

TRD-9606043

Susan K. Steeg  
General Counsel  
Texas Department of Health

Filed: May 2, 1996



## **Health and Human Services Commission Public Notice**

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 96-08, Amendment Number 509.

The amendment revises the plan to address the requirements imposed by §4211(b)(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1987 and §§4801(e)(1)(A), (B) and (e)(19) of OBRA 1990. The amendment is effective October 1, 1996.

If additional information is needed, please contact Pam McDonald, Texas Department of Human Services, at (512) 438-4086.

Issued in Austin, Texas, on April 26, 1996.

Filed: April 30, 1996

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## Texas Department of Housing and Community Affairs

### Notice of Determination of Certain Counties

In accordance with the Texas Property Code, §5.092, the Texas Department of Housing and Community Affairs has determined that the requirements governing residential contracts for deed in Subchapter E will apply to the following counties in Texas:

**1. Bee; 2. Brooks; 3. Cameron; 4. Dimmit; 5. Duval; 6. El Paso; 7. Frio; 8. Hidalgo; 9. Jim Hogg; 10. Jim Wells; 11. La Salle; 12. Maverick; 13. Presidio; 14. Reeves; 15. San Patricio; 16. Starr; 17. Uvalde; 18. Val Verde; 19. Webb; 20. Willacy; 21. Zapata; 22. Zavala.**

Each county listed previously is within 200 miles of an international border and has a per capita income that averaged 25% below the state average for the years 1991, 1992, and 1993 and an unemployment rate that averaged 225% above the state average for the years 1992, 1993, and 1994.

The Texas Department of Housing and Community Affairs has also determined that the requirements contained in Subchapter E will apply to the counties listed previously beginning June 1, 1996.

Issued in Austin, Texas, on May 2, 1996.

TRD-9606080      Larry Paul Manley  
Executive Director  
Texas Department of Housing and  
Community Affairs

Filed: May 2, 1996

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### Notice of Public Hearing

The Texas Department of Housing and Community Affairs hereby announces four additional public hearings for the 1996 State Low Income Housing Plan and Annual Report Draft for Public Comment.

The locations are as follows:

#### **Monday, May 13, 1996**

Austin: 6:30-8:30 p.m., TDHCA, Waller Creek Office Building, 4th Floor Board Room, 507 Sabine, Austin Texas 78711-3941

San Antonio: 6:30-8:30 p.m. (Reservations pending please call TDHCA for location.)

#### **Tuesday, May 14, 1996**

Socorro: 6:30-8:30 p.m., Rio Vista Community Center, 901 Rio Vista, Socorro, Texas 79927

Dallas: 7:00-9:00 p.m., Southeast Dallas YMCA, 2818 Prichard, Dallas, Texas 75227

Childcare will be provided at each location. Please call TDHCA at (512) 475-3972 for more information or to order copies of the Plan (\$24.00). Written comments may

be submitted to TDHCA housing Resource Center at the address listed previously. Individuals who require auxiliary aids in order to attend this meeting should contact Aurora Carvajal, ADA Responsible Employee at (512) 475-3822, or Relay Texas at 800-725-2989 at least two days prior to the hearing you will be attending.

Issued in Austin, Texas, on May 6, 1996.

TRD-9606190      Larry Paul Manley  
Executive Director  
Texas Department of Housing and  
Community Affairs

Filed: May 6, 1996

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### Public Notice

The Texas Department of Housing and Community Affairs announces that its annual Performance and Evaluation Report for Fiscal Year 1995 State Community Development Block Grant Program is available for review at the Texas Community Development Division, 507 Sabine Street, Suite 700, Austin, Texas, during regular business hours, beginning May 10, 1996. The report includes the department's use of Community Development Block Grant funds for the period July 1, 1995, through January 31, 1996; the nature of and reasons for changes in the program's objectives; indications of how the department would change its programs as a result of its experiences; and an evaluation of the extent to which its funds were used for activities that benefited low and moderate income persons.

Written comments may be submitted through May 24, 1996, to Ruth Cedillo, Director, Texas Community Development Division, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941.

Issued in Austin, Texas, on May 6, 1996.

TRD-9606185      Larry Paul Manley  
Executive Director  
Texas Department of Housing and  
Community Affairs

Filed: May 6, 1996

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## Texas Department of Insurance

### Correction of Error

The Texas Department of Insurance adopted amendments to §3.1, and new §§3.2-3.21. The rules appeared in the March 1, 1996, issue of the *Texas Register* (21 TexReg 1662).

Section 3.20 was adopted without changes to the text of the section itself, but with changes to adopted form Cert-FR, Figure 1; and adopted Form Gen. Rev., Figure 2. The entire section, along with the forms are adopted as follows:

§3.20. *Appendix*. The forms adopted by reference in §3.2 of this title (relating to Adoption by Reference of Department Forms Utilized in the Review Process) are included in the Appendix to these sections. The following index refers to the form number, its description, and the figure number in the appendix.











## Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for a name change in Texas for Western Fidelity Insurance Corporation, a foreign fire and casualty company. The proposed new name is AFBA Life Insurance Company. The home office is in Baton Rouge, Louisiana.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on May 6, 1996.

TRD-9606199      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Filed: May 6, 1996



The Commissioner of Insurance will hold a public hearing under Docket Number 2222 on June 5, 1996, at 9:00 a.m. in Room 102 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider the adoption of proposed amendment to 28 TAC §§5.10001-5.10015, concerning the plan of operation of the Residential Property Insurance Market Assistance Program.

The proposed amendments and the statutory authority for the proposed amendments to 28 TAC §§5.10001-5.10015, were published in the April 30, 1996, issue of the *Texas Register* (21 TexReg 3673).

Issued in Austin, Texas, on May 2, 1996.

TRD-9606099      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Filed: May 3, 1996



## Notices of Public Meeting

The Commissioner of Insurance will hold a public meeting under Docket Number 2224 on Wednesday, May 22, 1996, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider proposed agency policy regarding banks' acting as agent for the sale of insurance products. The purpose of this meeting is to receive oral comments from interested persons.

The Texas Department of Insurance has proposed interim procedures for licensing of qualified banks as agents and allowing bank ownership of licensed agencies following the United States Supreme Court decision in *Barnett Bank of Marion County, N.A. v. Bill Nelson*, Florida Insurance Commissioner, Docket Number 94-1837, opinion handed down March 26, 1996. In *Barnett*, the Court held that the National Bank Act, §92, preempts any state law which prevents banks located in places with a population that does not exceed 5000 from exercising their authority under the federal law to act as insurance agents. The Court construes "prevents" to include "significantly impairs" or "significantly interferes with" a right granted under federal

law. Certain Texas laws governing the licensing of corporate agents and prohibiting the sharing of commissions with unlicensed entities may significantly interfere with a bank's ability to act as an insurance agent. Application of these provisions to national banks in places with a population not exceeding 5000 therefore may be pre-empted by the federal law. Under the Texas Constitution Article XVI, §16(c) and the Texas Savings Bank Act, Article 489e, §7.11, state banks and state savings banks respectively are granted the same powers as national banks. Therefore, any procedure adopted by the Commissioner will apply equally to state and national banks.

The Commissioner believes that adoption of interim procedures serves the public interest by providing a method for banks to exercise the authority granted to them by federal law subject, to the extent possible, to the same licensing and operating requirements as other insurance agents. Interim procedures would afford regulatory oversight of the bank's insurance business until the Texas legislature can consider appropriate statutory changes.

Individuals who wish to present comments will be asked to register immediately prior to the hearing. Individuals may present oral comments of up to five minutes in length when called upon.

Written comments on the proposal may be submitted to the Chief Clerk's Office, P.O. Box 149104, Mail Code 113-1C, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Rose Ann Reeser, Deputy Commissioner, Legal and Compliance, Mail Code 110-1A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

For further information or to request copies, please contact Sylvia Gutierrez at (512) 463-6326 (refer to Reference Number O-0596-16-I).

Issued in Austin, Texas, on May 2, 1996.

TRD-9606100      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Filed: May 3, 1996



## Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas of American Prepaid Professional Services, Inc., a foreign third party administrator. The home office is Gainesville, Florida.

Application for admission to Texas of Diversified Pharmaceutical Services, Inc., a foreign third party administrator. The home office is Edina, Minnesota.

Application for admission to Texas of Kanawha Benefit Services, Inc., a foreign third party administrator. The home office is Knoxville, Tennessee.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on May 2, 1996.

Filed: May 3, 1996

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## Texas Natural Resource Conservation Commission

### Consultant Proposal Request

This Request for Proposals (RFP) for consulting services is filed under the provisions of the Government Code, Chapter 2254, Subchapter B, that delineates the statutory requirements governing the use of private consultants by state agencies.

**I. Overview.** The Texas Natural Resource Conservation Commission (TNRCC) is requesting proposals from qualified companies/organizations to provide consulting services relating to business process reengineering/improvement for the agency's records and document management business processes. The goal is to develop recommendations and an implementation plan for a streamlined business process which is coupled with the appropriate technology.

Recommendations must be based on proven benchmarked processes researched and documented throughout the public and private sector. The business process review must provide the TNRCC with an objective review of our present records and document management business practices, the associated risks, inhibitors, and efficiencies that accompany those practices, and recommendations to improve the records and document management at the TNRCC. The implementation plan must successfully integrate strategies for successful business and technology implementation and change management.

**II. Scope of Work.** The potential consulting services contractor shall be capable of rendering a specific type of service commonly called business process reengineering, business process improvement, or business retooling in the area of records and document management. The potential contractor should also be able to recommend, if appropriate, enabling information technology. The potential contractor must have a documented methodology and experience in evaluating and recommending changes to records and document management processes.

**III. Disclosure by Former Employees of a State Agency.** Any individual who responds to this RFP and offers consulting services to the TNRCC by submitting a proposal, and who has been employed by the TNRCC, or by another agency of the state at any time during the two years preceding the making of the offer shall disclose such facts in the proposal: the agency name, the date of termination of the employment, and the annual rate of compensation for the employment at the time of resignation.

**IV. Procedures for Selecting Consultant.** The TNRCC reserves the right to accept or reject any, or all, proposals submitted in response to this request and to negotiate modifications necessary to improve the quality or cost effectiveness of any offer received. The TNRCC is under no legal obligation to enter into a contract with any proposer on the basis of this request and intends any material provided herein only as a means of identifying the scope of services requested.

The TNRCC assumes no responsibility for expenses incurred in preparing a proposal response to this solicitation.

Proposal requirements are set forth fully in a "Request for Proposals: Records and Document Management Process Review and Recommendations." Proposals will be evaluated on the basis of the following criteria: technical strategy and approach including schedule for deliverables-30%; demonstrated ability and experience to perform the work-25%; demonstrated understanding of the requirements and goals of the work-15%; qualifications and references of assigned personnel-10%; itemized budget-10%; and reasonableness of the fee (cost effectiveness of the proposal)-10%. Preferences will be given, all other considerations being equal, to a consultant whose principal place of business is within the state or who will manage the consulting engagement wholly from one of its offices within the state.

**V. Proposal Closing.** Responses must be received no later than 3:00 p.m., June 11, 1996. Responses received after this date and time will not be considered. We anticipate entering into the contract within two weeks of the proposal closing date. The successful proposer will be notified by facsimile.

**VI. Obtaining Request for Proposals.** Copies of the RFP may be obtained in any of the following manners: by sending a regular or certified letter, telefax, express/overnight letter (including a self-addressed, prepaid return envelope) requesting a copy to: Roy Deegan, Information Resources Division (MC 197), Re: Records and Document Management Process Review and Recommendation Project, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin Texas, 78711-3087, telefax: (512) 239-0888.

Please address all responses to the RFP to this same address.

Issued in Austin, Texas, on May 3, 1996.

TRD-9606136

Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: May 3, 1996

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## Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code Annotated, §382.017 (Vernon's 1992); Texas Government Code Annotated, Chapter 2001, Subchapter B (Vernon's 1993); and 40 Code of Federal Regulations, §51.102, of the United States Environmental Protection Agency regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission (commission) will conduct a public hearing to receive testimony regarding revisions to 30 TAC Chapter 117 and to the SIP.

The 1990 Federal Clean Air Act Amendments require states to either adopt the Federal Clean Fuel Fleet program, or implement a program which demonstrates equivalent emission reductions to the federal program. In 1995 the 74th Texas Legislature, through the passage of Senate Bill (SB) 200, amended the requirements of the Texas Clean Air Act, Chapter 382, Subchapter F, Health and Safety Code, affecting the state's alternative fuels program. This legislation directs the commission to adopt rules to implement the requirements of the statute. The current rulemaking is proposed, as required by SB 200, to implement an economic incentive program to help reduce

vehicle emissions and provide flexibility for fleet operators.

The amendments to §117.540 update references to the Chapter 117 final compliance date to May 31, 1999, correspondingly adjust all intermediate deadlines, and delete an obsolete rule reference. Also, §117.540(b) is deleted in order to eliminate obsolete rule requirements. In addition, the amendments add a new subsection, renumbered as §117.540(c), allowing the use of clean-fuel vehicle credits, as mandated by SB 200, to meet Chapter 117 requirements on an interim basis. These aspects of the amendment will be discussed separately. Subsections in §117.540 are renumbered accordingly.

A public hearing on the proposal will be held on June 11, 1996 at 10:00 a.m. in Building F, Room 2210, at the Texas Natural Resource Conservation Commission complex located at 12100 North IH-35, Park 35 Technology Center, Austin. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 95158-117-AI. Comments must be received by 5:00 p.m., June 14, 1996. For further information, please contact Mike Magee, Air Policy and Regulations Division, (512) 239-1511.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on May 3, 1996.

TRD-9606097 Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: May 3, 1996

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## Texas Parks and Wildlife Department

### Notice of Public Comment Hearing for Permit to Remove Sand, Gravel or Marl From the Public Waters of the State of Texas-Revenue Permit Number SR 91-006

Notice is hereby given that Weirich Bros., Inc., whose address is P.O. Box 206, Johnson City, Texas, 78636, as of April 23, 1996, filed an administratively complete application with the Texas Parks and Wildlife Department for a revenue permit: to remove up to 540 tons of sand and 4,860 of gravel per month from the Llano River in Kimble County. The site is located approximately 0.5 miles north of Junction, Texas along IH 10 adjacent to the property of Rose Lee Meeks, Bobby Baker, Bobby Davis, Bobby Chenault, Bill Dechert, Aubrey Johnson, Genen and Charles Simon, and Don Baugh.

This permit is requested under the authority granted to the Texas Parks and Wildlife Commission in Chapter 86 of

the Parks and Wildlife Code and will not authorize the crossing of any private property.

The hearing to receive public comment on this application will be conducted: Tuesday, June 4, 1996 at 3:00 p.m., Conference Room A-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Travis County, Texas at which time all interested persons may appear and be heard. Comments may be mailed to the Department at the following address, or presented orally or in writing at the hearing. Comments sent by mail should be received by the Department prior to the public comment hearing.

In addition, any person who can demonstrate a justiciable interest may request a formal contested case hearing pursuant to the Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001, §2001.054. Any person wishing to request such a hearing should submit a written request to Paul Shinkawa at the address listed. Such a request should include a short statement of the nature of any objections to the requested permit and a description of the potential adverse impact which may be suffered by the requestor. Requests for formal contested case hearings must be received by the Department no later than 30 days after the date of issuance of this notice as listed below or by the close of the public comment hearing, whichever is later.

Further information concerning any aspect of the application or the hearing process may be obtained by contacting Paul Shinkawa, Resource Protection Attorney.

Issued in Austin, Texas on May 2, 1996

TRD-9606041 Bill Harvey, Ph.D.  
Regulatory Coordinator  
Texas Parks and Wildlife Department

Filed: May 2, 1996

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## Texas Department of Protective and Regulatory Services

### Request for Proposals

Announcement of intention to procure Guardianship and Representative Payee Services. The Texas Department of Protective and Regulatory Services (PRS), Adult Protective Services (APS), Region 7, is seeking a combined contract for guardianship and representative payee services for Travis County.

#### Service Description:

Guardian: Serve as guardian for Adult Protective Services (APS) clients, who are incapacitated as defined by Probate Code Section 601, who are in need of guardianship services, and for whom there is no one willing or able to serve as guardian. These clients include elderly persons and adults with disabilities who are in a state of abuse, neglect, or exploitation that would be remedied by guardianship and children in need of guardians who are aging out of Child Protective Services (CPS) conservatorship on their 18th birthdays. Services purchased include application for guardianship and provision for the care, control, and protection of the ward and/or his estate, assessment, service plan development, accessing services, monitoring the status of wards, ensuring that ward's needs for food, shelter, clothing, medical and psychiatric care, if needed, are met using the funds of the estate; and managing the estate. Vendor must conduct a criminal background check

and check with PRS regarding validated perpetrator status of any prospective or existing employees and volunteers who will have access to the wards referred by PRS; meet Probate Code requirements; comply with state and federal licensing and certification requirements, health and safety standards, and PRS APS requirements; and obtain and furnish proof of bonding and insurance coverage. Clients may have a number of diagnoses and problems including physical disabilities, dementia, mental illness, mental retardation, related conditions, and severe behavior problems.

**Representative Payee:** Serve as representative payee for Adult Protective Services (APS) clients who are incapacitated as defined by Probate Code Section 601, who are in need of representative services, and for whom there is no one willing or able to serve as representative payee. These clients include elderly persons and adults with disabilities who are in a state of abuse, neglect, or exploitation that would be remedied by having a representative payee. Activities include filing with the Social Security Administration to receive funds on behalf of a beneficiary who is unable to administer his or her own finances; systematically ensuring client's family and personal financial resources and obligations are met and bills paid; to the extent that resources allow, ongoing financial needs are identified and planned for; and to the extent possible, ensure client receives emergency benefits, as eligibility allows.

#### **Background:**

**Guardian:** The contractor must ensure that the ward has access to a safe, clean environment, has access to assistance in performing basic life functions, including bathing, grooming, feeding, exercising, dressing, toileting, transfer/ambulating and medication administration as needed, has access to regular nutritious meals, has access to any needed medical, psychiatric, habilitative and other services, has access to appropriate social and recreational activities, has well-managed finances, has appropriate supervision as needed, is involved in decisions concerning his welfare to the extent possible depending on the ward's condition, and is maintained in the least restrictive manner, using estate funds and accessing available public funds on behalf of the ward.

**Representative Payee:** The contractor must ensure that the client's assets are protected and not subject to loss, theft or malicious actions; contractor must be free from willful or gross negligence and malicious actions regarding client's property; to the extent that resources allow, the contractor directs and prioritizes bill paying activities, financial planning and budgeting; remains fully informed of client's financial obligations and available resources, and ensures authorized services are delivered in a timely manner. PRS expenditures for procuring guardianship and representative payee services will not exceed \$45,608 annually. Funding will be dependent upon available appropriations that PRS has allocated to these services. The effective dates of any contract awarded will be November 1, 1996 through August 31, 1998, with the option for renewal for a maximum of two years.

Guardianship services will be provided to approximately 35 client/wards of Travis County, with upward of an additional six referrals every three months.

Representative Payee services will be provided to approximately 12 clients of Travis County, with upward of an additional six referrals every three months.

**Eligible Applicants:** Eligible offerors are public or private nonprofit or for-profit agencies and individuals who have a minimum of one year experience serving aged and/or disabled individuals. Eligible offerors must have demonstrated knowledge, competence, and qualifications in serving aged and adults with disabilities. PRS is an Affirmative Action/Equal Opportunity state agency.

**Process:** Offerors must submit their proposals to the Department prior to 5:00 p.m., May 31, 1996. It is expected that a contract will be issued by November 1, 1996. Responsive proposals will be reviewed and ranked by a group of Department employees and other individuals with knowledge of guardianship and representative payee service. The Department may reject all bids at its discretion. Negotiations may be entered into with a number of the qualified bidders.

**Contact Person:** The complete Request for Proposal instructions can be obtained by contacting Dennis Hill, Contract Manager, Mail Code 019-1, Texas Department of Protective and Regulatory Services, P.O. Box 15995, Austin, Texas 78761.

Issued in Austin, Texas on May 2, 1996.

TRD-9606074

C. Ed Davis  
Deputy Commissioner for Legal Services  
Texas Department and Regulatory Services  
Filed: May 2, 1996



Announcement of Intention to procure Guardianship Services. The Texas Department of Protective and Regulatory Services (PRS), Adult Protective Services (APS), Region 7, announces its intention of selecting vendors to provide Guardianship services to clients in Bosque, Falls, Hill, Limestone, and McClennan Counties.

**Service Description:** Serve as guardian for Adult Protective Services (APS) clients, who are incapacitated as defined by Probate Code Section 601, and for whom no one is willing or able to serve as guardian. These clients include elderly persons and adults with disabilities who are in a state of abuse, neglect, or exploitation that would be remedied by guardianship and children in need of guardians who are aging out of Child Protective Services (CPS) conservatorship on their 18th birthdays. Services purchased include application for guardianship and provision for the care, control, and protection of the ward and/or his estate, assessment, service plan development, accessing services, monitoring the status of wards, ensuring that wards needs for food, shelter, clothing, medical and psychiatric care, if needed, are met using the funds of the estate, and managing the estate. Vendor must conduct a criminal background check and check with PRS regarding validated perpetrator status of any prospective or existing employees and volunteers who will have access to the wards referred by PRS; meet Probate Code requirements; comply with state and federal licensing and certification requirements, health and safety standards, and PRS APS requirements; and obtain and furnish proof of bonding and insurance coverage. Clients may have a number of diagnoses and problems including physical disabilities, dementia, mental illness, mental retardation, related conditions, and severe behavior problems.

**Background:** The contractor must ensure that the ward has access to a safe, clean environment, has access to assistance in performing basic life functions, including bathing, grooming, feeding, exercising, dressing, toileting, transfer/ambulating and medication administration as

needed, has access to regular nutritious meals, has access to any needed medical, psychiatric, habilitative and other services, has access to appropriate social and recreational activities, has well-managed finances, has appropriate supervision as needed, is involved in decisions concerning his welfare to the extent possible depending on the ward's condition, and is maintained in the least restrictive manner, using estate funds and accessing available public funds on behalf of the ward.

PRS expenditures for procuring guardianship services in this five county area will not exceed \$18,000 annually. Funding will be dependent upon available appropriations that PRS has allocated to these services. The effective dates of any contract awarded will be September 1, 1996 through August 31, 1998, with an option for renewal for a maximum of two years.

Guardianship services will be provided to approximately 12 clients/wards in the five county area with up to six additional client/wards every three months.

**Eligible Applicants:** Entities having a minimum of one year experience serving aged and/or disabled individuals. Historically underutilized businesses, public or private profit, or nonprofit agencies with demonstrated knowledge, competence, and qualifications in performing these services are encouraged to apply.

**Process:** Offerors must submit their proposals to the Department prior to 5:00 p.m., May 31, 1996. It is expected that a contract will be issued by September 1, 1996. Responsive proposals will be reviewed and ranked by a group of Department employees and other individuals with knowledge of guardianship services. The Department may reject all bids at its discretion. Negotiations may be entered into with a number of the qualified bidders.

**Contact Person:** The complete Request for Proposal instructions can be obtained by contacting Dennis Hill, Contract Manager, Mail Code, 019-1, Texas Department of Protective and Regulatory Services, P.O. Box 15995, Austin, Texas 78761.

Issued in Austin, Texas on May 2, 1996.

TRD-9606069 C. Ed Davis  
Deputy Commissioner for Legal Services  
Texas Department of Protective and  
Regulatory Services

Filed: May 2, 1996

## Request for Proposal

Announcement of Intention to procure Personal Assistance Services. The Texas Department of Protective and Regulatory Services (PRS), Adult Protective Services (APS), Region 08 (Bexar County and surrounding area), announces its intention of selecting vendors to provide Personal Assistance to APS clients through the APS Emergency Client Services (ECS) program.

**Service Description:** Licensed home and community support service agencies will employ attendants to provide nonskilled, nontechnical services in a client's home. Tasks performed for the client include: personal care, housekeeping, meal preparation, escort, and supervision. An elderly or disabled adult must be receiving adult protective services from PRS in accordance with §§48.002(5) and 48.021(a) of the Human Resources Code, and have a service plan developed by the Department under these

Sections which indicates that emergency client services are needed to remedy abuse, neglect, or exploitation.

**Background:** APS investigates reports of abuse, neglect and exploitation of the elderly and adults with disabilities who are 18 to 64 years of age. In some cases, ECS funds are utilized to purchase Personal Assistance Services for clients to remedy abuse or neglect. The APS unit rate paid will be \$7.44 per hour. If the client is identified as high risk, the unit rate is \$9.63 per hour. PRS, Region 08 expenditures for procuring Personal Assistance Services will be approximately \$115,000. Funding will be dependent upon available appropriations. The effective dates of any contract awarded will be September 1, 1996, through August 31, 1997, with the option for renewal of up to a maximum of four years. Personal Assistance Services will be provided in the following counties: Bexar, Comal, Guadalupe, Atascosa, Karnes, Frio, Wilson, La Salle, Gillespie, Kerr, Kendall, Bandera, Real, Uvalde, Medina, Dimmit, Zavala, Val Verde, Maverick, Kinney, Edward, Victoria, Goliad, Jackson, Calhoun, Dewitt, Gonzales, and Lavaca. A contractor may serve one or more of these counties.

**Eligible Applicants:** Home and Community Support Service Agencies licensed by the Texas Department of Health. Historically underutilized businesses, public or private profit, or nonprofit agencies with demonstrated knowledge, competence, and qualifications in performing these services are encouraged to apply.

**Process:** Vendors will be selected through a competitive multiple awards process. The names of the agencies that receive a contract with PRS will be placed in a directory of contract agencies. The number of referrals will depend upon how often Personal Assistance Services are authorized for clients living in the counties served, client selection of agency and availability of funding. Vendors must demonstrate compliance with minimum Request for Proposal (RFP) requirements. Vendors must ensure that staff providing direct services must have appropriate training and experience with frail elderly and adults with disabilities who are 18 to 64 years of age. References must be provided as specified in the RFP packet.

Offerors must submit their proposals to the Department prior to 12:00 pm., May 31, 1996. It is expected that a contract will be issued by September 1, 1996.

**Contact Person:** The complete RFP packets may be obtained by contacting Ms. Janice Zitelman, APS Operations Support Director, Mail Code 278-5, Texas Department of Protective and Regulatory Services, P.O. Box 23990, San Antonio, Texas 78223-0990, (210) 337-3155.

Issued in Austin, Texas on May 2, 1996.

TRD-9606075 C. Ed Davis  
Deputy Commissioner for Legal Services  
Texas Department of Protective and  
Regulatory Services

Filed: May 2, 1996

## Public Utility Commission of Texas

### Notice of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on April 19,

1996, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act of 1995 (PURA), Texas Revised Civil Statutes Annotated, Article 1446c-0, §§1. 101, 3.051(b), 3.251, 3.253, and 3.254 (Vernon Supp. 1996). A summary of the application follows.

Docket Title and Number. Application of Taylor Telephone Cooperative, Inc. to Amend Certificate of Convenience and Necessity Within Runnels County. Docket Number 15706.

The Application. In Docket Number 15706, Taylor Telephone Cooperative, Inc. seeks approval to amend the exchange area boundary between its Norton exchange and GTE Southwest's Rowena exchange to provide telephone service to a customer currently without service.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf on or before June 3, 1996.

Issued in Austin, Texas, on May 3, 1996.

TRD-9606115      Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 3, 1996

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### Notice of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Birdville ISD in Fort Worth, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Birdville ISD in Fort Worth, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15540.

The Application. Southwestern Bell Telephone Company is requesting approval of a 235 station addition to the existing PLEXAR-Custom service for Birdville ISD. The geographic service market for this specific service is the Fort Worth, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 25, 1996.

TRD-9606086      Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 2, 1996

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application on May

3, 1996, pursuant to Public Utility Commission Substantive Rule 23.27 for approval of a customer-specific contract for billing and collection services with U.S. Voiceline, Inc. doing business as PTBS.

Tariff Title and Number: Application of Southwestern Bell Telephone Company for Approval of a Customer-Specific Contract for Billing and Collection Services for U.S. Voiceline, Inc. doing business as PTBS pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15719.

The Application: Southwestern Bell Telephone Company seeks approval of a customer-specific billing and collection services contract with U.S. Voiceline, Inc. doing business as PTBS. The services pursuant to the customer-specific contract will be offered anywhere within the state of Texas where U.S. Voiceline, Inc. doing business as PTBS provides services to Southwestern Bell end user customers.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas, 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0223, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 1, 1996.

TRD-9606006      Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 1, 1996

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Mission CISD in Mission, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Mission CISD in Mission, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15729.

The Application. Southwestern Bell Telephone Company is requesting approval of a 179 station addition to the existing PLEXAR-Custom service for Mission CISD. The geographic service market for this specific service is the Mission, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 1, 1996.

TRD-9606008      Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 1, 1996

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◆      *IN ADDITION May 10, 1996 21 TexReg 4191*

## Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application on April 29, 1996, pursuant to Public Utility Commission Substantive Rule 23.27 for approval of a customer-specific contract for Whitehouse Independent School District.

**Tariff Title and Number.** Application of GTE Southwest Incorporated for Approval of a Customer-Specific Contract for Whitehouse Independent School District pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15702.

**The Application.** GTE Southwest Incorporated seeks approval to renew a customer-specific contract to provide Multi-Media Digital Services to the Whitehouse Independent School District. GTE-SW proposes to offer these services within the former Contel of Texas, Inc. exchange of Whitehouse to the business operations of the Whitehouse ISD in Whitehouse, Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas, 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0223, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 1, 1996.

TRD-9606005      Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 1, 1996

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Edinburg CISD in Edinburg, Texas.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Edinburg CISD in Edinburg, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15728.

**The Application.** Southwestern Bell Telephone Company is requesting approval of a 70 station addition to the existing PLEXAR-Custom service for Edinburg CISD. The geographic service market for this specific service is the Edinburg, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 1, 1996.

TRD-9606007      Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 1, 1996

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Southside State Bank in Tyler, Texas.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Southside State Bank in Tyler, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15733.

**The Application.** Southwestern Bell Telephone Company is requesting approval of a 24 station addition to the existing PLEXAR-Custom service for Southside State Bank. The geographic service market for this specific service is the Tyler, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 1, 1996.

TRD-9606009      Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 1, 1996

## Public Notice

On April 29, 1996, Southwestern Bell Telephone Company (SWB) filed notice to file LRIC studies pursuant to Substantive Rule §23.91 for Night Service per Agent-PLEXAR, Directed Call Pickup Non Barge In per Line-PLEXAR, Distinctive Ringing/Call Waiting Ton per Line-PLEXAR, 2500 Set Not Ready per Agent-PLEXAR, Speed Calling Personal per Line-PLEXAR, Remote Call Forwarding per Line, Call Transfer-Add On to Fully Restricted Line/Line-PLEXAR, SFG's for In and Out Calls-PLEXAR, Call Forwarding Don't Answer Incoming Only/Line-PLEXAR, Directed Call Pickup Barge In per Line-PLEXAR, Basic ACD, Non Electric-PLEXAR, Toll Restriction per Line-PLEXAR, Transfer to Incalls Key per Agent-PLEXAR, Basic ACD-PLEXAR, Abandoned Call Clearing per Agent-PLEXAR, ACD 2500 Login/Logout per Agent-PLEXAR, Automatic Overflow per Agent-PLEXAR, Call Delay Announcement-PLEXAR, Voice Data Protection per Line-PLEXAR, Not Ready Key per Agent-PLEXAR, Dial Call Waiting per Line-PLEXAR, Automatic Callback Calling per Line-PLEXAR, Call Forwarding Don't Answer Inside/Outside per Line-PLEXAR, Call Forwarding Busy Inside/Outside Agent (System) per Line-PLEXAR, Call Forwarding Incoming Only/Line-PLEXAR, Call Forwarding Within Group Only/Line-PLEXAR, Call Forwarding Variable per Line-PLEXAR, Call Transfer All Calls per Line-PLEXAR, Call Waiting Originating per Line-PLEXAR, Call Waiting Terminating per Line-PLEXAR, Call Forwarding Busy Line Incoming Only/Line-PLEXAR, Series Completion per Line-PLEXAR, Semi-Restricted (Orig and Term)/Line-PLEXAR, Fully Restricted (Orig and Term)/Line-PLEXAR, Intra ACD Calling per Agent (System)-PLEXAR, CPU with Multiple Incoming Calls/Line-PLEXAR, Three-Way Calling/Call Pickup Interaction/Line-PLEXAR, Code Restriction and

Diversion/Line-PLEXAR, Call Transfer InterCentrex Screening/Line-PLEXAR, Customer Access Treatment Code Restriction/Line-PLEXAR, Single Digit Dialing per Line, Blind Transfer Recall per Line, Blind Transfer Recall Identification per Line, Dial Trunk Transfer per Line-PLEXAR, Call Waiting-Intragroup per Line-PLEXAR, Circle Hunt per Line-PLEXAR, Permanent Hold/Line-PLEXAR, Critical Interdigital Timing for Dial Plan/Line-PLEXAR, Outgoing Call Screening/Line-PLEXAR, Dual-Tone Multifrequency (DTMF) Dialing-PLEXAR, Multiline Hunt Service per Line-PLEXAR, Denied Originating Service/Line-PLEXAR, Distinctive Ringing Enhancements/Line-PLEXAR, Call Transfer Internal Only/Line-PLEXAR, Call Transfer Individual Incoming Only/Line-PLEXAR, 3-Way Calling per Line-PLEXAR, Denied Terminating Service/Line-PLEXAR, 3-Way Calling Chaining per Station-PLEXAR, ACD Queue Slot (30%)-PLEXAR, Call Agent Key per Agent (System)-PLEXAR, Call Forcing per Agent-PLEXAR, Call Park per Station-PLEXAR, Call Supervision and Answer Agent Key per Key-PLEXAR, Call Transfer with Timer per Agent-PLEXAR, Call Waiting-Incoming Only per Station-PLEXAR, Called Name/Number Display-PLEXAR, Cancel Call Waiting per Line-PLEXAR, Dial Transfer to Tandem Tie Line per Line-PLEXAR, Display Queue Status Key-PLEXAR, Last Number Redial per Line-PLEXAR, MultiStage Queue Status Display-PLEXAR, Overflow of Enqueued Calls per Agent-PLEXAR, Preferential Hunt per Station-PLEXAR, Queue Status Lamp per Agent-PLEXAR, Agent Status Lamp per Agent-PLEXAR, Trunk Answer Any Station per Arrangement-PLEXAR in Project Numbers 12475 and 12481, Applications of Southwestern Bell Telephone Company and GTE Southwest, Inc. for Approval of LRIC Workplans Pursuant to Substantive Rule 23.91. SWB expects to file these studies on May 8, 1996.

Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by June 17, 1996. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Public Information Office at (512) 458-0256. The telecommunications device for the deaf (TDD) is (512) 458-0221.

Issued in Austin, Texas, on May 1, 1996.

TRD-9606004 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: May 1, 1996

## **Texas Rehabilitation Commission**

### **Request for Proposals for Managed Care Access and Safeguards for People with Developmental Disabilities**

May 1996

This announces the availability of funds to be awarded on behalf of the Texas Planning Council for Developmental Disabilities (TPCDD) by the Texas Rehabilitation Commission to create and implement an educational program. This program will train Texans with developmental disabilities participating in the Medicaid Managed Care

pilots and their families how to effectively access managed care, particularly under Medicaid, and obtain services that fully meet their health care needs. Managed care organizations and providers will be educated on the needs of people with disabilities in a managed care system. Sample education materials and methods for use by the managed care organizations and providers in meeting their responsibility to educate their enrollees with developmental disabilities will be developed. This program will also provide feedback on implementation of managed care and recommendations to improve the system. For people with disabilities and others with special health care needs, managed care procedures and protocols can be especially difficult to negotiate. People with disabilities (SSI population) will be able to voluntarily enter managed care at its onset. While there are hazards, the State feels that people with disabilities should be included from the beginning to ensure that the new system is developed in a way that appropriately meets their needs, improves their access to the full range of providers and removes incentives to develop a separate system for people with disabilities. This grant will provide easy to understand material and training to consumers on how to access needed health care services. The purpose and expected outcome of the project is the satisfactory participation of people with disabilities in the managed care system and education of enrollees in the Medicaid waived Managed Care pilot projects. Indicators of this outcome include consumer feedback which demonstrates that: consumers are prepared with knowledge about managed care and how to use the system; information is presented in a way that is understandable and useful; consumers know how to solve problems and know how to achieve a satisfactory result; consumers have access to services needed to achieve better health; and managed care providers understand and respond to the health needs of persons with disabilities. The primary focus of the RFP is the education of four groups of stakeholders in the Medicaid managed care system: consumers of managed care organizations and potential enrollees, managed care organizations and contract providers, HHSC Help Line personnel, and community advocates. The secondary focus is to develop model consumer educational materials and methods for future use by managed care organizations in meeting their consumer education responsibilities to people with developmental disabilities. The third focus is to include opportunities for consumers to provide feedback to the managed care system, for the purpose of resolving problems and effecting continuous quality improvement. Collaborative applications from relevant stakeholders are encouraged.

One project will be funded for up to three years. Continuation funding for the second and third years will be contingent upon annual review of performance, availability of federal funding, and TPCDD funding priorities. The initial budget period is September 1, 1996 to May 31, 1997.

Estimated funding not to exceed \$175,000 for the first year and up to \$150,000 for each of the second and third years.

Nonfederal match of 25% is requested for the first year. A project located in counties designated as federal poverty areas requires a minimum of 10% matching resources for the first year. Increasing nonfederal match will be required in the second and third years.

For the application packet containing the full request for proposals, application forms and instructions, please submit a written or fax request to: Lester Sanders, Grants Management Director, Texas Planning Council for Devel-



opmental Disabilities, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4084 or (512) 483-4097 Fax.

Deadline: Proposals will be accepted at the Texas Planning Council Office, 4900 North Lamar Boulevard, Office #5410, 5th Floor, Austin, Texas until 4:00 p.m. on July 12, 1996. No fax copies of proposals will be accepted. Copies of application kit will be sent by regular mail and will not be faxed to applicants.

Issued in Austin, Texas on May 2, 1996.

TRD-9606065 Charles W. Schiesser  
General Counsel Office of the General  
Counsel  
Texas Rehabilitation Commission

Filed: May 2, 1996

◆ ◆ ◆  
**Request for Proposals for Support for  
Individuals with Developmental  
Disabilities Who Are Aging**

May 1996

This announces the availability of funds to be awarded on behalf of the Texas Planning Council for Developmental Disabilities (TPCDD) by the Texas Rehabilitation Commission. The purpose of this RFP is to solicit proposals for one project that will result in an increase in community integrated services from Area Agencies on Aging and other state agencies to individuals with developmental disabilities who are aging or whose parents are aging and an increase in knowledge, understanding and collaboration among Area Agencies on Aging and other state agencies with responsibility for services to persons with developmental disabilities who are aging. The social service programs and providers serving the disability community are often not aware of the programs and services available through the aging network and, likewise, those in the aging network do not always know about resources available to people who have disabilities.

The Council is interested in encouraging the development of collaboration to serve aging adults with developmental disabilities. All efforts must reflect the directives of the Older Americans Act as amended in 1992, requiring all states to develop and maintain cooperation in designing and implementing services which include all aging adults with developmental disabilities in programs and resources for people who are aging. Services designed and implemented should seek to reduce the isolation experienced by people with disabilities who are aging and should seek to achieve community inclusion for them. Collaborative applications from relevant stakeholders are encouraged.

One project will be funded for up to five years. Continuation funding for years two through five will be contingent upon annual review of performance, availability of federal funding, and TPCDD funding priorities. The initial budget period is September 1, 1996 to May 31, 1997.

Estimated funding not to exceed \$150,000 in year one and up to \$250,000 annually for years two through five.

Nonfederal match of 25% is requested for the first year. A project located in counties designated as federal poverty areas requires a minimum of 10% matching resources for the first year. Increasing nonfederal match will be required in years two through five.

For the application packet containing the full request for proposals, application forms and instructions, please submit a written or fax request to: Lester Sanders, Grants Management Director, Texas Planning Council for Developmental Disabilities, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4084 or (512) 483-4097 Fax

Deadline: Proposals will be accepted at the Texas Planning Council Office, 4900 North Lamar Boulevard, Office #5410, 5th Floor, Austin, Texas until 4:00 p.m. on July 12, 1996. No fax copies of proposals will be accepted. Copies of application kit will be sent by regular mail and will not be faxed to applicants.

Issued in Austin, Texas on May 2, 1996.

TRD-9606066 Charles W. Schiesser  
General Counsel Office of the General  
Counsel  
Texas Rehabilitation Commission

Filed: May 2, 1996

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**Stephen F. Austin State University  
Follow-up Notice on Consulting Services  
Contract**

Pursuant to Texas Government Code, Chapter 2254, Stephen F. Austin State University provides the following information for publication in the *Texas Register*:

1. The award of the construction manager contract to J. E. Kingham Construction Company was made pursuant to Texas Government Code, Chapter 2254.
2. Notice of the request for proposals was published in the February 20, 1996, edition of the *Texas Register* (21 TexReg 1518).
3. The private consultant is to perform the construction management function for the renovation of HVAC systems in student residence halls 9 and 12.
4. The total value of the contract is \$76,736. The contract dated April 22 will terminate upon the provision of the requested services which should be on or about August 31, 1996.
5. The private consultant selected is J. E. Kingham Construction Company, 312 Tyler Street, Nacogdoches, Texas 75961.
6. The consultant will provide construction management for the renovation of student residence halls 9 and 12 throughout the project, anticipated for completion on or about August 31, 1996.

Issued in Nacogdoches, Texas, on April 29, 1996.

TRD-9606068 Roland Smith  
Vice President for Business Affairs  
Stephen F. Austin State University

Filed: May 2, 1996

◆ ◆ ◆  
**Texas Department of Transportation  
Notice of Award**

In accordance with the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation publishes this notice of award for a professional services

contract. The request for qualifications for professional engineering services was published in the September 15, 1995, issue of the *Texas Register* (20 TexReg 7419). The consultant(s) will provide professional engineering services for the design and construction administration phases for the following contract(s).

**TxDOT Project:** 9602BRGPT, City of Bridgeport. The engineering firm for these services is: Childress Engineers. The total value of the contract is \$69,998.50. The contract period started on April 5, 1996, and will continue until the completion of the project.

**TxDOT Project:** 9607OZONA, County of Crockett. The engineering firm for these services is: Parkhill, Smith and Cooper, Inc. The total value of the contract is \$129,290. The contract period started on April 5, 1996, and will continue until the completion of the project.

Issued in Austin, Texas, on May 1, 1996.

TRD-9606033      Robert E. Shaddock  
General Counsel  
Texas Department of Transportation

Filed: May 1, 1996

## Request for Proposals

**Notice of Invitation:** The Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Subchapter A, and 43 TAC §§9.30-9.40, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

**Contract Numbers 14-6XXP0001 and 14-6XXP0002:** Two providers will be selected to perform asphaltic concrete testing.

**Contract Numbers 14-6XXP0003 and 14-6XXP0004:** Two providers will be selected to perform Portland Cement Concrete testing.

**Contract Number 14-6XXP0005:** One provider will be selected to perform soil drilling and sampling and testing for engineering projects.

**Contract Number 14-6XXP0006:** One provider will be selected to perform soil and base material testing.

**Deadline:** A Letter of Interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 832-7080, or hand-delivered to TxDOT, Robert B. Daigh, P.E., Austin District Office, 7901 North IH 35, Austin, Texas, or mailed to P.O. Drawer 15426, Austin, Texas 78761-5426. Letters of Interest will be received until 5:00 p.m. on Friday, May 31, 1996. The Letter of Interest must include the engineer's firm name, address, telephone number, fax number, name of engineer's contact person and contract number. Upon receipt of the Letter of Interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive Request for

Proposal packet. TxDOT will not issue Request for Proposal packet without receipt of Letter of Interest.)

**Proposal Submittal Deadline:** Proposals for contract Numbers 14-6XXP0001 thru 14-6XXP0006 will be accepted until 5:00 p.m. on Friday, June 21, 1996, at the TxDOT Austin District Office mentioned address.

**Agency Contact:** Requests for additional information regarding this notice of invitation should be addressed to Robert B. Daigh, P.E. at (512) 832-7086 or Fax (512) 832-7080.

**Contract Number 14-7XXP5001:** One provider to perform on-system bridge class culvert inspections (BRINSAP) for 11 counties in the Austin District.

**Deadline:** A Letter of Interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by Fax at (512) 218-0026, or hand-delivered to TxDOT, Austin District Office, 7901 North IH 35, Austin, Texas, or mailed to P.O. Drawer 15426, Austin, Texas 78761-5426. Letters of Interest will be received until 5:00 p.m. on Wednesday, May 29, 1996. The Letter of Interest must include the engineer's firm name, address, telephone number, fax number, name of engineer's contact person and contract number. Upon receipt of the Letter of Interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive Request for Proposal packet. TxDOT will not issue Request for Proposal packet without receipt of Letter of Interest.)

**Proposal Submittal Deadline:** Proposals for contract Numbers 14-7XXP5001 will be accepted until 5:00 p.m. on Monday, July 1, 1996, at the TxDOT Austin District Office mentioned address.

**Agency Contact:** Requests for additional information regarding this notice of invitation should be addressed to Mr. Jeff Howell, P.E. or Mr. Tracy House at (512) 388-3885 or Fax (512) 218-0026.

Issued in Austin, Texas, on May 6, 1996.

TRD-9606187      Robert E. Shaddock  
General Counsel  
Texas Department of Transportation

Filed: May 6, 1996

## Texas Workers Compensation Commission

### Correction of Error

The Texas Workers Compensation Commission renewed the effectiveness of the emergency adoption of the amendment to §126.10. The rule was published in the May 7, 1996, issue of the *Texas Register* (21 TexReg 3875).

The rule contained an incorrect expiration date of 90 days (August 12, 1996) rather than 60 days (July 12, 1996).

# *Texas Register*

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### **Texas Workers Compensation Commission, Title 28**

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